PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
AGENDA
13235 Center Road
Traverse City, MI 49686
September 8, 2016
7:00 p.m.

1. **Call to Order**
2. **Pledge**
3. **Roll Call of Attendance**
4. **Approval of Agenda**
5. **Conflict of Interest**
6. **Communication Received**
7. **Brief Citizens Comments – for items not on the Agenda**
8. **Scheduled Public Hearings**

A. Request No. 853, Zoning R-1C
Applicant: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Property Address: 7002 Peninsula Drive, Traverse City, MI 49686
Requests: (1) a variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage; and (2) a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.
Parcel Code No. 28-11-325-085-00

B. Request No. 855, Zoning R-1B
Applicant: Paula Krzeczkowski, 3025 Shore Wood Dr., Traverse City, MI 49686
Owner: Ruth C. Palmer Trust c/o Paula Krzeczkowski, 3025 Shore Wood Dr., Traverse City, MI 49686
Property Address: 3025 Shore Wood Dr., Traverse City, MI 49686
Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for a land division.
Parcel Code No. 28-11-635-020-00

C. Request No. 856, Zoning R-1B
Applicant: Michelle Amaly Recchia, 2630 Rawasi Ave., Traverse City, MI 49685
Owner: Michelle Amaly Recchia, 2630 Rawasi Ave., Traverse City, MI 49685
Property Address: 2755 Shore Wood Dr., Traverse City, MI 49686
Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.
Parcel Code No. 28-11-635-008-00

9. **Approval of Minutes**
   A. July 13, 2016 Special Meeting
   B. August 11, 2016 Meeting
10. **New Business**
   A. Township Board Report (Witkop)
   B. Planning Commission Report (Wunsch)
11. **Adjournment**

Peninsula Township has several portable hearing devices available for audience members. If you would like to use one, please ask the Clerk.

LEGAL NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on September 8, 2016 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 853, Zoning R-1C
Applicant: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Property Address: 7002 Peninsula Drive, Traverse City, MI 49686

Requests: (1) a variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage; and (2) a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

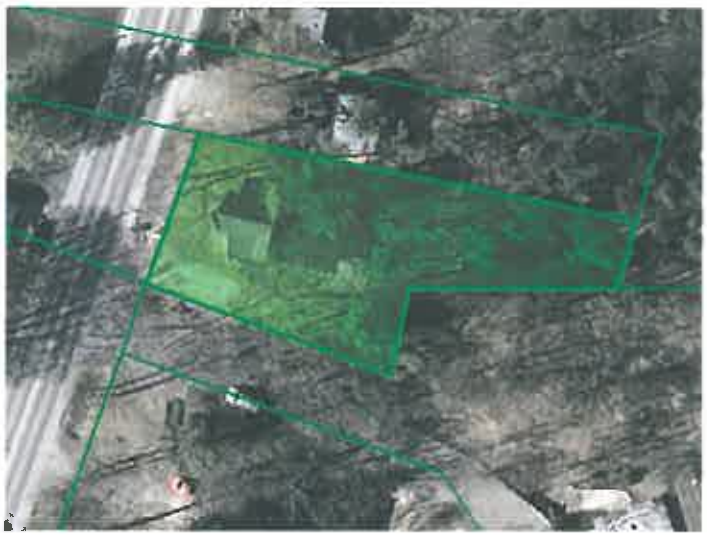
Parcel Code No. 28-11-325-085-00

Please be advised that the public may appear at the public hearing in person or by council.

Written comment may be submitted to Peninsula Township Planning & Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 4:30 PM on the date of the hearing.

If you are planning to attend the meeting and are disabled requiring any special assistance, please so notify the Planning & Zoning Department at (231) 223-7322 or call TDD at (231) 922-4766.

SUBJECT PROPERTY



Peninsula Township Planning & Zoning Department
STAFF REPORT

ZBA Request #853 – 7002 Peninsula Drive
September 8, 2016

To: **Peninsula Township Zoning Board of Appeals**

From: **Claire Schoolmaster, Planning & Zoning**

RE: **Request No. 853 – 7002 Peninsula Drive**

Hearing Date: **September 8, 2016 – 7:00 PM**

Applicant: **Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686**

Site: **7002 Peninsula Drive, Traverse City, MI 49686**

Tax IDs: **28-11-325-085-00**

Information:

- Parcel 28-11-325-085-00 is approximately 0.3 acres in size.
- The property is zoned Suburban Residential Single and Two-Family (R-1C); the surrounding area is also zoned Suburban Residential Single and Two-Family (R-1C).
- The lot was created before the adoption of the Peninsula Township Zoning Ordinance, and is considered non-conforming.
- The lot approximately 12,760 square feet and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet.
- The residential structure located on the property was built in 1900 and is conforming.
- There is a building envelope located on the lot.
- The proposed attached garage requires a rear yard setback variance of up to 9 feet from the required 30 feet.
- The proposed attached garage requires a side yard setback variance of up to 9 feet from the required 15 feet.

Action Requested: (1) variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage; and (2) a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

Mailing: Twenty (20) surrounding property owners were notified. No comments were received as of September 1, 2016.

Applicant Statement: Please see the enclosed application submitted by Daniel & Margaret Casey, property owners.

Staff Comments:
Request #1 & 2
The applicant is requesting variances for the construction of an attached two car garage.

Background
The existing single family residence was built in 1900. Two variances are needed to construct an attached 2 car garage.

The proposed residential addition conforms to relevant zoning standards for minimum lot setbacks of the front and north side yard, but does not conform to the minimum rear yard and south side yard setback restrictions as demonstrated in the following table:

R-1C Standards (Section 6.8)	Required	Proposed Garage	**Variance**	**Conforms to Standard?**
Minimum Front Setback	25'	70'	**NA**	**Yes**
Minimum South Side Setback	15'	9'	**6'**	**No**
Minimum North Side Setback	15'	50'	**NA**	**Yes**
Minimum Rear Setback	30'	8'	**22'**	**No**
Minimum OHWM Setback	NA	NA	**NA**	**NA**

The applicant requests (1) a variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage; and (2) a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage. The requested variance must meet the following standards in order to be granted. Specific staff comments follow the standards.

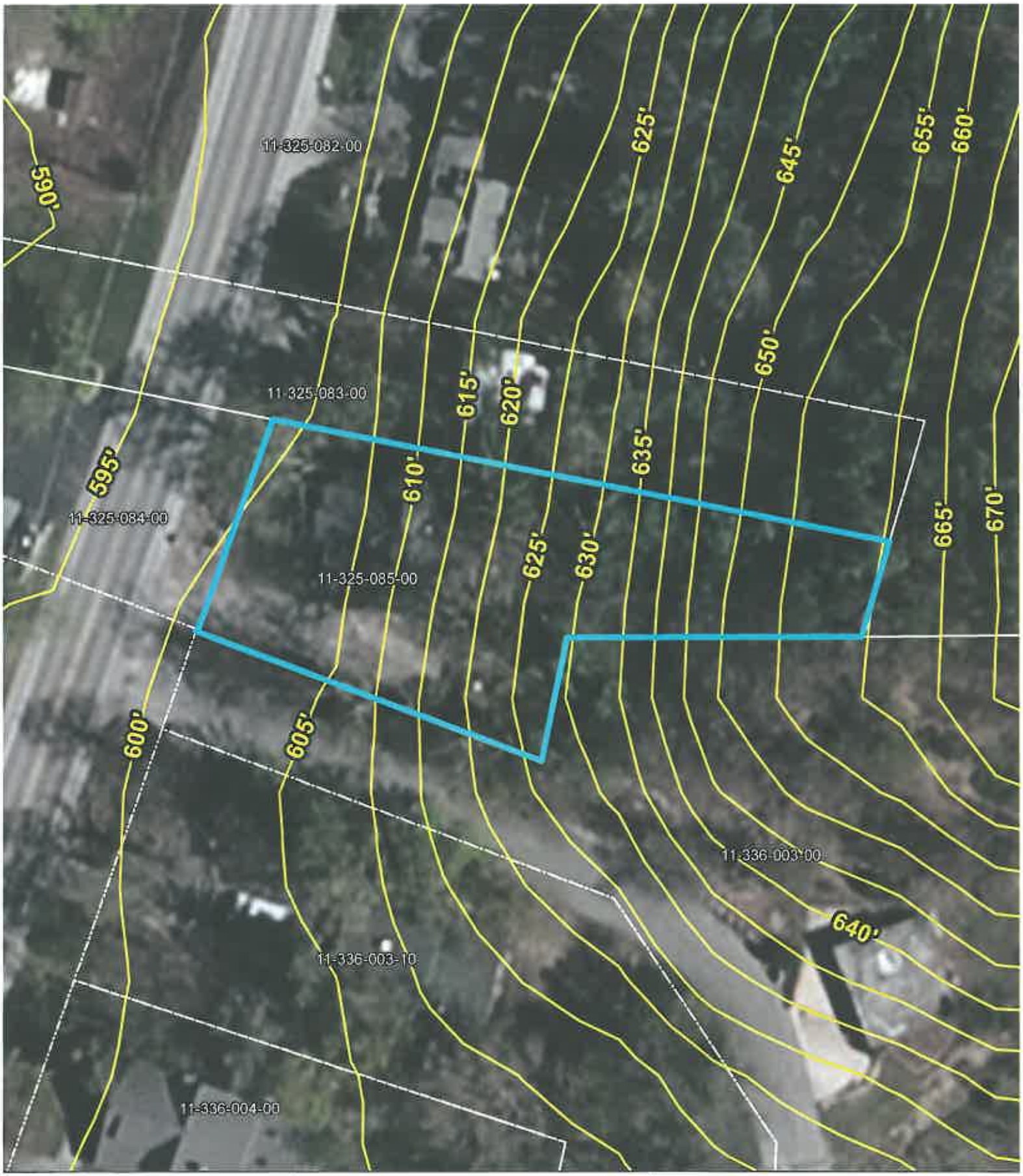
A. Section 3.2 Definition of Practical Difficulty
To obtain a dimensional variance, the applicant must show *practical difficulty* by demonstrating all of the following:
   a) Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome.
   b) A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others.
   c) The plight of the owner is due to unique circumstances of the property and the problem was not self-created.

B. Section 5.7.3 Variances
The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.

1) Basic Conditions: That any variance from this Ordinance:
   a. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
   b. Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use or dimensional variance for which a conditional use permit is required.
   c. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
   d. Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
   e. Will relate only to the property that is under control of the applicant.

2) Special Conditions: When ALL of the foregoing basic conditions can be clearly demonstrated:
   a. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
   b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.
   c. Where the lot or parcel of land was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance.
   d. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

The subject property, zoned R-1C, was created before the effective date of the Ordinance and considered non-conforming. The width is approximately 71 feet and the length is approximately 192.5 feet.



Contour Lines

Parcel of Interest

Peninsula Twp Parcels

Topographic Overlay
PIN: 28-11-325-085-00

50

Feet

Peninsula Township
Grand Traverse County
Michigan

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Peninsula Township Planning & Zoning Department
EXHIBIT LIST

ZBA Request #853 – 7002 Peninsula Drive
September 8, 2016

EXHIBIT LIST

1. Peninsula Township Master Plan
2. Peninsula Township Zoning Ordinance
3. Request for Variance filed by Daniel Casey, property owner
4. Staff report from Peninsula Township Planning & Zoning Department

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #853 – 7002 Peninsula
September 8, 2016

DECISION AND ORDER

Applicant: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686

Hearing Date: September 8, 2016

PROPERTY DESCRIPTION

The property of 7002 Peninsula Drive, Traverse City, MI 49686, Parcel No. 28-11-325-085-00 herein after referred to as the "property".

APPLICATION

Requests: (1) a variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage; and (2) a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

The Board having considered the Application, a public hearing having been held on September 8, 2016, after giving due notice as required by law, the Board having heard the statements of the Applicant and agents, the Board after having considered letters submitted by members of the public and comments by members of the public, the Board having considered four (4) exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned Suburban Residential Single and Two-Family (R-1C). (Exhibits 1, 2)
2. The Board finds that the lot was created before the adoption of the Zoning Ordinance and is non-conforming. (Exhibit 1, 2)
3. The Board finds that the lot approximately 12,760 square feet and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
4. The Board finds that the proposed attached garage does not conform to relevant zoning standards. (Exhibits 2, 3, 4)
5. The Board finds that there is a building envelope located on the property. (Exhibits 1, 2)
6. The Board finds that the applicant requests a variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage. (Exhibit 3)
7. The Board finds that the applicant requests a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage. (Exhibit 3)

Variance Request #1 A variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for

the construction of a 720 square foot attached garage.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

   The following findings may support this standard HAS been met.

   a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

   b. The Board finds that the parcel is nonconforming. The total area is approximately 12,760 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)

   c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

   d. The Board finds that

   The following findings may support this standard HAS NOT been met.

   a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

   b. The Board finds that the existing retaining wall does not comply with the rear yard setback restriction. (Exhibits 2, 3, 4)

   c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

   d. The Board finds that

   This standard HAS / HAS NOT been met.

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

   The following findings may support this standard HAS been met.

a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

b. The Board finds that the parcel is nonconforming. The total area is approximately 12,760 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)

c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

d. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

b. The Board finds that the existing retaining wall does not comply with the rear yard setback restriction. (Exhibits 2, 3, 4)

c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

d. The Board finds that

This standard HAS / HAS NOT been met.

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

The following findings may support this standard HAS been met.

a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

b. The Board finds that the parcel is nonconforming. The total area is approximately 12,760 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)

c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

d. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

b. The Board finds that the existing retaining wall does not comply with the rear yard setback restriction. (Exhibits 2, 3, 4)

c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

d. The Board finds that

This standard HAS / HAS NOT been met.

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

b. The Board finds that the parcel is nonconforming. The total area is approximately 12,760 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)

c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

d. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

b. The Board finds that the existing retaining wall does not comply with the rear yard setback restriction. (Exhibits 2, 3, 4)

c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

d. The Board finds that

This standard HAS / HAS NOT been met.

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

   The following findings may support this standard HAS been met.

   a. The Board finds that generally proposed garage is unlikely to cause adverse impacts of the subject property or that of any neighboring properties. (Exhibits 3, 4)

   b. The Board finds that

   The following findings may support this standard HAS NOT been met.

   a. The Board finds that

   This standard HAS / HAS NOT been met.

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

   The following findings may support this standard HAS been met.

   a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district. (Exhibits 1, 2)

   b. The Board finds that

   The following findings may support this standard HAS NOT been met.

   a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

   b. The Board finds that the existing retaining wall does not comply with the rear yard setback restriction. (Exhibits 2, 3, 4)

   c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

   d. The Board finds that

   This standard HAS / HAS NOT been met.

VARIANCE REQUEST # 1 MOTION TO APPROVE / DENY

The Peninsula Township Board of Appeals has **APPROVED / DENIED** your request for a variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage.

CONDITIONS OF APPROVAL

1.
2.
3.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #1 be **APPROVED / DENIED**.

Variance Request #2 A variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

The following findings may support this standard HAS been met.

a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

b. The Board finds that the parcel is nonconforming. The total area is approximately 12,760 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)

c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

d. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

b. The Board finds that the existing retaining wall does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)

c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

d. The Board finds that

This standard HAS / HAS NOT been met.

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

b. The Board finds that the parcel is nonconforming. The total area is approximately 12,760 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)

c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

d. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

b. The Board finds that the existing retaining wall does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)

c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

d. The Board finds that

This standard HAS / HAS NOT been met.

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

The following findings may support this standard HAS been met.

a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

b. The Board finds that the parcel is nonconforming. The total area is approximately 12,760 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)

c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

d. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

b. The Board finds that the existing retaining wall does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)

c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

d. The Board finds that

This standard HAS / HAS NOT been met.

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

b. The Board finds that the parcel is nonconforming. The total area is approximately 12,760 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)

c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

d. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

b. The Board finds that the existing retaining wall does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)

c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

d. The Board finds that

This standard HAS / HAS NOT been met.

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

The following findings may support this standard HAS been met.

a. The Board finds that generally proposed garage is unlikely to cause adverse impacts of the subject property or that of any neighboring properties. (Exhibits 3, 4)

b. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district. (Exhibits 1, 2)

b. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

b. The Board finds that the existing retaining wall does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)

c. The Board finds that there is a building envelope located on the lot. (Exhibit 1, 2)

d. The Board finds that

This standard HAS / HAS NOT been met.

VARIANCE REQUEST # 2 MOTION TO APPROVE / DENY

The Peninsula Township Board of Appeals has **APPROVED / DENIED** your request for a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

CONDITIONS OF APPROVAL

1.
2.
3.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #2 be **APPROVED / DENIED**.

TIME PERIOD FOR JUDICIAL REVIEW

Mcl 125.3606 provides that any party aggrieved by a decision of the Zoning Board of Appeals may appeal that decision to the Circuit Court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the ZBA, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.

DATE DECISION AND ORDER ADOPTED

Date	Chairperson
Date	Vice Chairperson
	Secretary

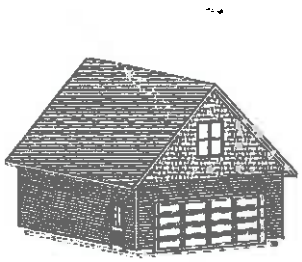
7/10/16
To: Peninsula Township Zoning Board of Appeals
From: Dan and Peggy Casey
7002 Peninsula Drive

After retiring in June, we moved to Traverse City to be closer to our son's growing family. Our purpose in requesting this variance is to replace an existing shed with a garage. Due to the unusual shape of our lot, without a variance, the garage would be out of compliance with set back requirements. We believe that a garage would make our winters much easier to handle, while at the same time improving the appearance of our home.

Thank you for considering our application.

Dan and Peggy Casey

Proposed



Peninsula Township Variance Application

Application Guidelines

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117 www.peninsulatownship.com

1. Zoning Board of Appeals (ZBA) applications are available from the Peninsula Township Planning & Zoning Department, 7:30 a.m. to 6:30 p.m., Monday, and 7:30 a.m. to 5:00 p.m. Tuesday through Thursday, or online at www.peninsulatownship.com/zoning.

2. **Applications must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the ZBA meeting. Ten (10) copies must be submitted.**

3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.

4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.

5. It is the applicant's responsibility to ensure that the application is complete upon submission. **Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.** An incomplete application will not be considered for review by the ZBA.

6. The application will be forwarded to members of the ZBA for a public hearing.

7. A notice of the public hearing must be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.

8. The applicant will receive a notice of the public hearing in the mail, and is expected to attend the meeting.

9. ZBA meetings are held on the second Thursday of every month, beginning at 7:00 p.m. in the Township Hall, 13235 Center Road, Traverse City, MI 49686.

10. If the variance(s) are granted, **construction authorized by such variance(s) must begin within six (6) months after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance must take place within one (1) year after the granting of the variance.**

11. If the variance(s) are granted, construction authorized by such variance(s) must comply with all other necessary permits. **A variance is independent from, and does not substitute for, all other permits.**

Variance Application

12. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

OFFICE USE ONLY		
Date Received:	Fee Received:	Board Action:
Date Complete:	Meeting Date:	

Peninsula Township

General Information

A fully completed application form, fee, and all related documents must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the Zoning Board of Appeals meeting. **10 copies are required.**

Applicant Information

Applicant: Name __Dan and Peggy Casey_____ _____
Address Line 1 _7002 Peninsula Drive_____
Address Line 2 _Traverse City, MI 49686_____

Phone ___517-282-8755_____Cell _____517-282-8755_____

E-mail ____danpegcasey@gmail.com_____

Owner: Name _____Dan and Peggy Casey_____
Address Line 1 ___7002 Peninsula Drive_____
Address Line 2 ___Traverse City, MI 49686_____
Phone __517-282-8755___ Cell ___517-282-8755_____
E-mail ____ danpegcasey@gmail.com _____

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

Property Information

Parcel ID __28-11-325-085-00_____ Zoning _____R-1C_____
Address Line 1 __7002 Peninsula Drive_____
Address Line 2 __Traverse City, MI 49686_____

Type of Request

Indicate which Ordinance requirement(s) are the subject of the variance request:

[ ] Front Yard Setback [x] Side Yard Setback [x] Rear Yard Setback
[ ] Width to Depth Ratio [ ] Lot Coverage [ ] Off-Street Parking
[ ] Signage [ ] Height/Width [ ] Non-Conformity Expansion [ ] Other: Please Describe:
_We would like to replace the existing shed with a garage. Due to the unusual shape of our lot, the garage would require a variance from the set back requirements.

Variance Application

Attachments

[x] $375 Fee

[x] Practical Difficulty Worksheet (Found on Page 3 of Application)

[x] Basic and Special Conditions Worksheets (Found on Pages 4-5 of Application)

[x] Site plan drawn to scale showing the following:

a. Property boundaries; Shoreline properties must show the Ordinary High Water Mark on a certified survey, and the Flood Elevation Line (3 feet above OHWM) if any;
b. All existing and proposed structures including decks and roof overhangs;
c. Setbacks for existing and proposed structures (varies by zoning district).

[x] Front elevation diagram drawn to scale.

Peninsula Township

Practical Difficulty Worksheet

In order for a variance to be justified, the applicant must demonstrate that strict application of the provisions of the Peninsula Township Zoning Ordinance to petitioned property would result in **Practical Difficulty** (defined in Article III of the Ordinance) inconsistent with the general purpose and intent of the Ordinance.

The Applicant must answer the following questions pertaining to practical difficult in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 3.2, Practical Difficulty: To obtain a dimensional variance, the applicant must show *practical difficulty* by demonstrating **all** of the following:

1. **Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome.**

   Is this condition met? Please explain: _Yes. Due to the unusual shape of our lot, we cannot replace the existing shed with a garage without a variance from set back requirements. We moved here to be closer to our son's family. We plan on living here year round and a garage would make winters much more manageable.

2. **A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others.**

   Is this condition met? Please explain: Our intention is to improve the property by replacing the existing shed with an attached garage that is consistent with the style of our house.

3. The plight of the owner is due to unique circumstances of the property.

Is this condition met? Please explain: _Yes. Our lot has a very unusual shape. This makes a variance necessary in order to fit the garage on the site. _____

_____

_____

4. The problem was not self-created.

Is this condition met? Please explain: _Yes. We purchased the house in June of 2016. We had nothing to do with the creation of the shape of the lot.

Peninsula Township

Basic Conditions Worksheet

In order for a variance to be justified, the Applicant must meet **all of the Basic Conditions**, as defined in Section 5.7.3(1) of the Peninsula Township Zoning Ordinance. The Applicant must answer the following questions pertaining to the Basic Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(1) Basic Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided all of the Basic Conditions listed herein can be satisfied.**

(1) **BASIC CONDITIONS:** The applicant must meet ALL of the following Basic Conditions. That any variance from this Ordinance:

a. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

Is this condition met? Please explain: _Yes. Replacing the shed with a garage will improve the appearance of the house without negatively impacting our neighbors or the community.

_____

b. **Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use or dimensional variance for which a conditional use permit is required.**

Is this condition met? Please explain: __Yes. My wife and I have been married for 38 years and moved here to be closer to our son and his family. The house is to be used only as our private residence.

c. **Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.**

Is this condition met? Please explain: Yes. Replacing the shed with a garage will improve the appearance of the site and increase property values in the community.

---

d. **Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.**

Is this condition met? Please explain: _Yes. This problem exists because of a very unusually shaped lot.

---

e. **Will relate only to property that is under control of the applicant.**

Is this condition met? Please explain: _Yes. The garage will be completely on our property.

Peninsula Township

Special Conditions Worksheet

In order for a variance to be justified, the applicant must meet **at least one of the Special Conditions**, as defined in Section 5.7.3(2) of the Peninsula Township Zoning Ordinance. The applicant must answer the following questions pertaining to the Special Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(2) Special Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided at least one of the Special Conditions listed herein can be satisfied.**

(2) **SPECIAL CONDITIONS:** When ALL of the foregoing Basic Conditions can be clearly demonstrated, the applicant must meet at least ONE of the following Special Conditions:

a. **Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.**

Is this condition met? Please explain: Yes. Our intention is to live here year round. Being able to put our cars in a garage will make the winters much easier to manage._____

b. **Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted for any act of the applicant subsequent to the adoption of this Ordinance.**

Is this condition met? Please explain: _Yes. We moved to our house in June of 2016. We had nothing to do with the unusual shape of the lot.

c. **Where the lot or parcel of land was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance.**

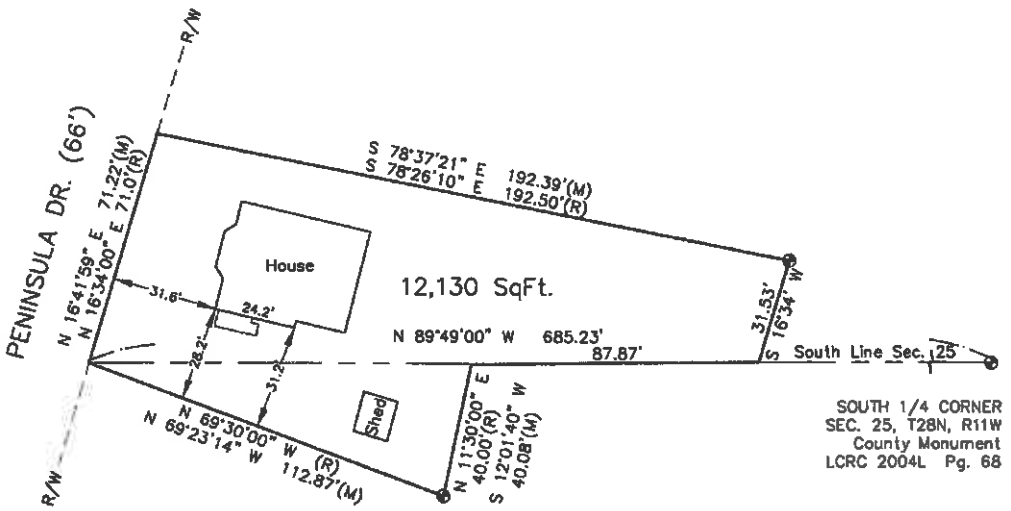
Is this condition met? Please explain: _No. This does not apply to us.

d. **Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.**

Is this condition met? Please explain: _No. This does not apply to us

Variance Application

Certificate of Survey



Legend

- ● IRON FND
- ○ IRON SET
- ▲ P.K. FND.
- △ P.K. SET
- ◉ MONUMENT FND.
- (R) RECORD
- (M) MEASURED

Scale: 1" = 40'

0' 20' 40' 80'

N

DESCRIPTION AS FURNISHED

Part of Government Lot 4, Section 25 and Government Lot 1, Section 36, described as Commencing on the South line of Section 25 at a point North 89°49' West 685.23 feet from the South 1/4 post, which point is 81.2 feet East of Meander Post; thence North 16°34' East along easterly line of West Bay Shore Road, 71 feet; thence South 78°26' East 192.50 feet; thence South 16°34' West 31.53 feet to South line f Section 25; thence North 89°49' West 87.87 feet to a point 114 feet East of Point of Beginnning; thence South 11°30' West 40 feet; thence North 69°30' West to Point of Beginning, Sections 25 and 26, T28N, R11W.

I, Scott D. McLain, a Professional Surveyor in the State of Michigan, do hereby certify that I have surveyed and mapped the hereon described parcel(s) of land; that the ratio of closure of the unadjusted field observations is within the accepted limits; and that I have fully complied with the requirements of P.A 132 of 1970, as amended.

Scott D. McLain
Professional Surveyor 57817

Ratio of Closure: 1/10,000
Basis of Bearing: Description as Furnished

Michigan Geomatics

Professional Land Surveying
Civil Engineering

5422 Goodrick Road
Traverse City, MI 49684
(231) 325-2655

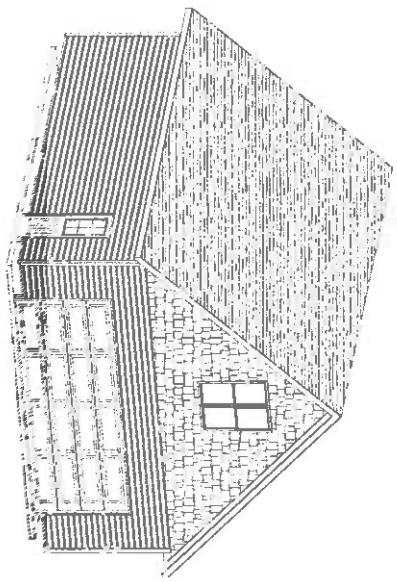
MichiganGeomatics.com

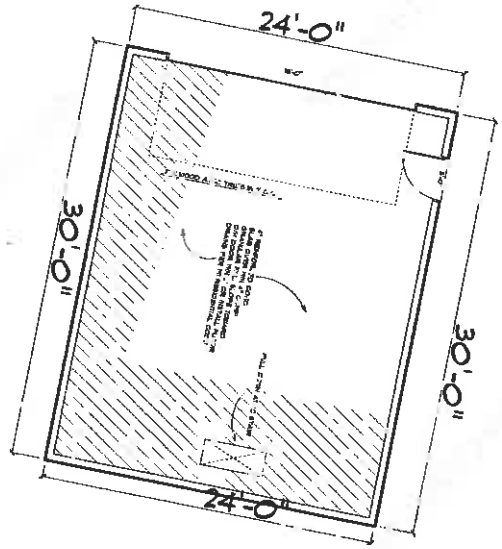
For:

DAN CASEY

Part of Gov't Lot 4, Sec. 25 & Lot 1, Sec. 36, T28N, R11W, Peninsula Township, Grand Traverse Co., Michigan.

Date: June 3, 2016	File No: 16-3063
Drafted By: SDM	Sheet: 1 of 1



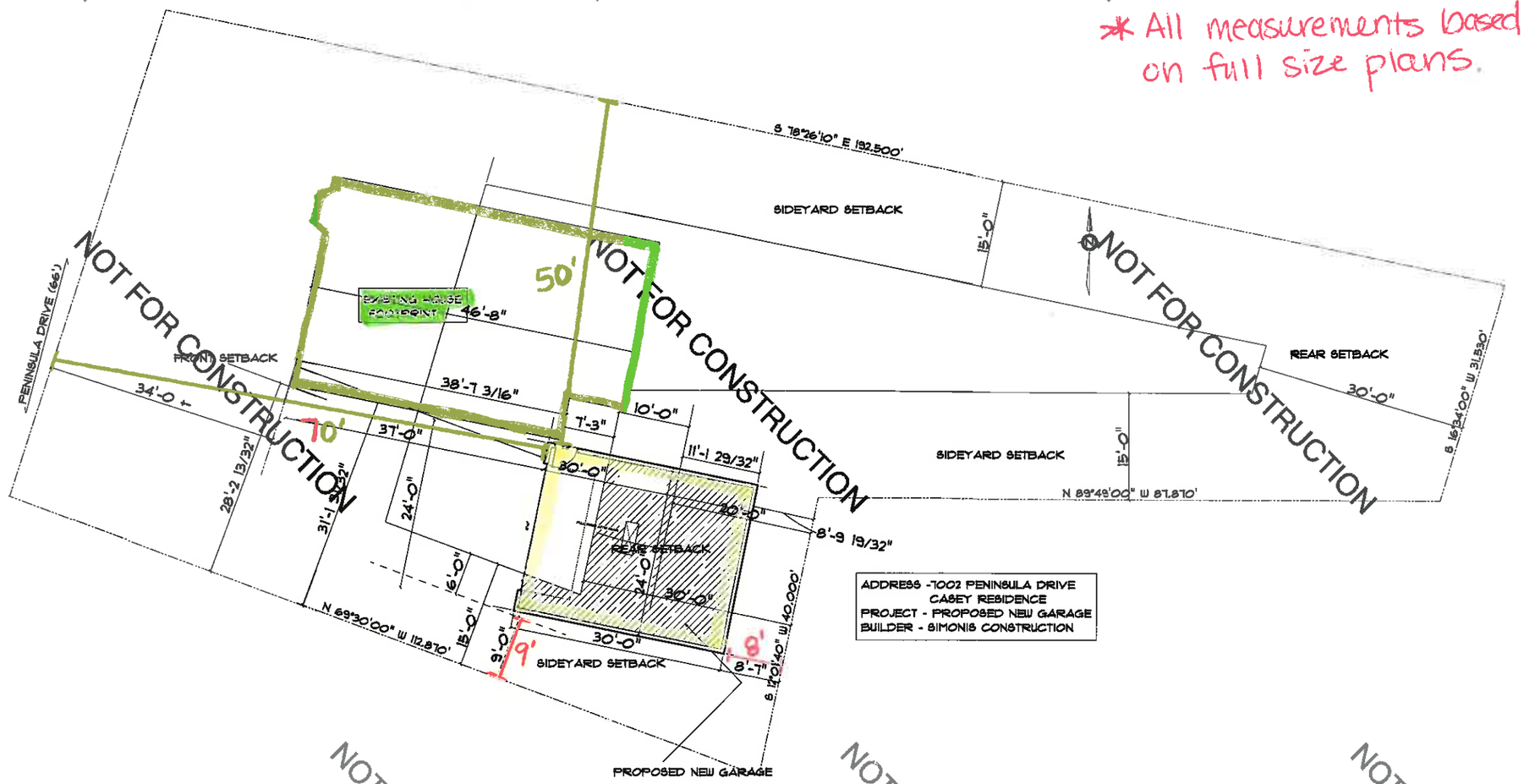


ADDRESS -1002 PENINSULA DRIVE
CASEY RESIDENCE
PROJECT - PROPOSED NEW GARAGE
BUILDER - SIMONIS CONSTRUCTION

casey garage peninsula drive PHONE:	SOFTPLAN ARCHITECTURAL DESIGN SOFTWARE	Thomas Design 212 River St, Suite A3 Elk Rapids Michigan 49629 PHONE: 231-4[illegible]-2360 FAX: 1-8[illegible]-672-4764 steve@thomasbuildingdesign.com	SCALE: 1/4" = 1'-0" DATE: Wednesday, July 6, 2016	A 1 1 SECTION LETTER PAGE NUMBERS	APPROVED: CHECKED BY:	PAGE: 2 PRELIM

NOT FOR CONSTRUCTION

* All measurements based on full size plans.



MAIN FLOOR
SCALE: 1/8" = 1'-0"

PAGE: 1
SITE
APPROVED:
CHECKED BY:
SCALE: 1/8" = 1'-0"
DRAWN BY: SJT
DATE: Saturday, August 13, 2016

Thomas Design
212 River St, Suite A3
Elk Rapids
Michigan
49629
PHONE:231-498-2380
FAX:1-833-872-2364
steve@thomasdesign.com

casey garage
peninsula drive
PHONE:

RECEIVED
AUG 22 2016

August 18, 2016

Peninsula Township Zoning Board of Appeals

Grand Traverse County, Michigan

To Whom It May Concern:

This letter is supporting Mr. and Mrs. Dan Casey's request to build a garage at their residence located at 7002 Peninsula Drive.

Thank you for your efforts.

Leo J. Hughes

7001 Peninsula Drive

Traverse City, MI 49686

LEGAL NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on September 8, 2016 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 855, Zoning R-1B
Applicant: Paula Krzeczkowski, 3025 Shore Wood Dr., Traverse City, MI 49686
Owner: Ruth C. Palmer Trust c/o Paula Krzeczkowski, 3025 Shore Wood Dr., Traverse City, MI 49686
Property Address: 3025 Shore Wood Dr., Traverse City, MI 49686

Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for a land division.

Parcel Code No. 28-11-635-020-00

Please be advised that the public may appear at the public hearing in person or by council.

Written comment may be submitted to Peninsula Township Planning & Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 4:30 PM on the date of the hearing.

If you are planning to attend the meeting and are disabled requiring any special assistance, please so notify the Planning & Zoning Department at (231) 223-7322 or call TDD at (231) 922-4766.

SUBJECT PROPERTY

Peninsula Township Planning & Zoning Department
STAFF REPORT

ZBA Request #855 – 3025 Shore Wood Drive
September 8, 2016

To: **Peninsula Township Zoning Board of Appeals**

From: **Claire Schoolmaster, Planning & Zoning**

RE: **Request No. 855 – 3025 Shore Wood Drive**

Hearing Date: **September 8, 2016 – 7:00 PM**

Applicant: **Paula Krzeczkowski, 3025 Shore Wood Drive, Traverse City, MI 49686**

Site: **3025 Shore Wood Drive, Traverse City, MI 49686**

Tax IDs: **28-11-635-020-00**

Information:

- Parcel 28-11-635-008-00 is approximately 1.959 acres in size.
- The property is zoned Coastal Zone Single and Two-Family (R-1B); the surrounding area is also zoned Coastal Zone Single and Two-Family (R-1B).
- The property fronts Shore Wood Drive, a non-conforming private road.
- The variance requested is for a land division. This requires the elimination of the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements.
- The proposed land division all applicable zoning standards.

Action Requested: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for a land division.

Mailing: Fourteen (14) surrounding property owners were notified. One comment was received as of September 1, 2016.

Applicant Statement: Please see the enclosed application submitted by Paula Krzeczkowski, property owner.

Staff Comments:

Request #1 Background
The subject property was originally platted as 3 separate lots and was later combined into one single lot. On April 4, 2016 a Deed of Trustee was executed to divide the lots back out. The requested land division requires the elimination of the obligation under Section 7.10.11 of the

Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements.

The applicant requests (1) variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for a land division. The requested variance must meet the following standards in order to be granted. Specific staff comments follow the standards.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The subject property, zoned R-1B, was created before the effective date of the Ordinance. The width is approximately 335.08 feet and the length is approximately 297.88 feet.

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #855 – 3025 Shore Wood Drive
September 8, 2016

DECISION AND ORDER

Applicant: Paula Krzeczkowski, 3025 Shore Wood Drive, Traverse City, MI 49686

Hearing Date: September 8, 2016

PROPERTY DESCRIPTION

The property of 3025 Shore Wood Drive, Traverse City, MI 49686, Parcel No. 28-11-635-020-00 herein after referred to as the "property".

APPLICATION

Request: (1) variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for a land division.

The Board having considered the Application, a public hearing having been held on September 8, 2016, after giving due notice as required by law, the Board having heard the statements of the Applicant and agents, the Board after having considered letters submitted by members of the public and comments by members of the public, the Board having considered five (5) exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned Coastal Zone Single and Two-Family (R-1B). (Exhibits 1, 2)
2. The Board finds that the lot was created in 1942, before the adoption of the Zoning Ordinance. (Exhibit 1, 2, 5)
3. The Board finds that Section 7.10.11 Existing Non-Conforming Frontage Roads requires that existing frontage roads are improved in terms of grade, roadbed, shoulder, and pavement requirements, and prior to the approval of a Land Divisoin. (Exhibit 2)
4. The Board finds that the applicant requests to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for a land division. (Exhibit 2)
5. The Board finds that the proposed land division meets all applicable zoning standards. (Exhibits 2, 3, 4)

Variance Request #1 A variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for a land division.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

   The following findings may support this standard HAS been met.

   a. The Board finds that Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibit 2)

   b. The Board finds that the proposed land division complies with all applicable zoning standards. (Exhibits 2, 3, 4)

   c. The Board further finds that according to Section 7.10.11 existing non-conforming frontage roads must meet the grade, roadbed, shoulder, and paving requirements prior to the approval of a land division. (Exhibit 2)

   d. The Board finds that Shore Wood is an existing legal non-conforming frontage road. The Board finds that given the property fronts Shore Wood Drive the ability to execute a land division is prohibited unless the frontage road is brought to Peninsula Township Zoning Ordinance standard or a variance granted. As such the Board finds that the requested variance is necessary for the owner to use the property for a permitted purpose. (Exhibit 2)

   e. The Board finds that

   The following findings may support this standard HAS NOT been met.

   a. The Board finds that

   This standard HAS / HAS NOT been met.

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

   The following findings may support this standard HAS been met.

   a. The Board finds that Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibits 2, 5)

   b. The Board finds that Shore Wood Drive is an existing non-conforming frontage road. The Board finds that given the property which fronts Shore Wood Drive the

ability to execute a land division is prohibited unless the frontage road is brought to standard or a variance granted. (Exhibits 2, 3, 4, 5)

c. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two Family (R-1B) and meets all applicable zoning standards. (Exhibits 2, 5)

b. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

a. The Board finds that Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibit 2)

b. The Board finds that the proposed land division complies with all applicable zoning standards. (Exhibits 2, 3, 4)

c. The Board further finds that according to Section 7.10.11 existing non-conforming frontage roads must meet the grade, roadbed, shoulder, and paving requirements prior to the approval of a land division. (Exhibit 2)

d. The Board finds that Shore Wood is an existing legal non-conforming frontage road. The Board finds that given the property fronts Shore Wood Drive the ability

to execute a land division is prohibited unless the frontage road is brought to Peninsula Township Zoning Ordinance standard or a variance granted. As such the Board finds that the requested variance is necessary for the owner to use the property for a permitted purpose. (Exhibit 2)

e. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

The following findings may support this standard HAS been met.

a. The Board finds that the land division is unlikely to decrease the values of any neighboring properties. (Exhibit 2, 3)

b. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two Family (R-1B) and meets all applicable zoning standards. (Exhibits 2, 5)

b. The Board finds that the land division will result in residential use. (Exhibits 3, 4)

a. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

VARIANCE REQUEST # 1 MOTION TO APPROVE / DENY

The Peninsula Township Board of Appeals has **APPROVED / DENIED** your request for a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for a land division.

CONDITIONS OF APPROVAL

1.
2.
3.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #1 be **APPROVED / DENIED**.

TIME PERIOD FOR JUDICIAL REVIEW

Mcl 125.3606 provides that any party aggrieved by a decision of the Zoning Board of Appeals may appeal that decision to the Circuit Court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the ZBA, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.

DATE DECISION AND ORDER ADOPTED

Date	Chairperson
Date	Vice Chairperson
	Secretary

3055 Shore Wood Drive
Traverse City, MI 49686

August 30, 2016

Peninsula Township Planning & Zoning Department
13235 Center Road
Traverse City, MI 49686

Re: Request No. 855, Zoning R1-B – Paula Krzeczkowski

Dear Zoning Board of Appeals Members:

We are neighbors of the subject property and know the applicants well. We own 2999 Shore Wood and 3055 Shore Wood, the two properties adjacent to the subject property. We are also part owners of the roadway and are the sole owners of an orchard south of the subject property. We fully support and are completely in favor of your granting the application.

Our only reservation with your notice is that, since Shore Wood Drive is a very old, non-conforming road, it should not be subject to Township fees or variance applications at all. Shore Wood Drive has been in the same place and in continual use by many of the same families for over 50 years. The Township's requiring that homeowners go through this variance application process takes money and time over a fact that is already well-established. Township law and practice should acknowledge that Shore Wood Drive is a private, grandfathered road not subject to more recent road provisions. Therefore, in addition to your granting the approval of this application now so that the applicant can proceed, we urge the Township to update your records to show that Shore Wood Drive is grandfathered so that other homeowners along it will not need a variance in the future.

Very truly yours,

Dustin Ordway

Dustin and Kim Ordway

RECEIVED
AUG 30 2016

Peninsula Township Planning & Zoning Department
EXHIBIT LIST

ZBA Request #855 – 3025 Shore Wood Drive
September 8, 2016

EXHIBIT LIST

1. Peninsula Township Master Plan
2. Peninsula Township Zoning Ordinance
3. Request for Variance filed by Paula Krzeczkowski, property owner
4. Staff report from Peninsula Township Planning & Zoning Department
5. Recorded Shore Wood Plat, approved July 1948

Peninsula Township Variance Application
General Information

A fully completed application form, fee, and all related documents must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the Zoning Board of Appeals meeting. **10 copies are required.**

Applicant Information

Applicant: Name PAULA KRZECZKOWSKI
Address Line 1 3025 Shore Wood Drive
Address Line 2 Traverse City, MI 49686
Phone _____ Cell 248 396-1632
E-mail rkrez@comcast.net

Owner: Name PAULA KRZECZKOWSKI.
Address Line 1 3025 Shore Wood Drive
Address Line 2 Traverse City, MI 49686
Phone _____ Cell 248 396-1632
E-mail rkrez@comcast.net

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

Property Information

Parcel ID 28-11-635-020-00 Zoning _____
Address Line 1 3025 Shore Wood Drive
Address Line 2 Traverse City, MI 49686

Type of Request

Indicate which Ordinance requirement(s) are the subject of the variance request:

[ ] Front Yard Setback [ ] Side Yard Setback [ ] Rear Yard Setback
[ ] Width to Depth Ratio [ ] Lot Coverage [ ] Off-Street Parking
[ ] Signage [ ] Height/Width [ ] Non-Conformity Expansion
[ ] Other: Please Describe: Road easement/access

Attachments

[ ] $375 Fee

[ ] Practical Difficulty Worksheet (Found on Page 3 of Application)

[ ] Basic and Special Conditions Worksheets (Found on Pages 4-5 of Application)

[ ] Site plan drawn to scale showing the following:

a. Property boundaries; Shoreline properties must show the Ordinary High Water Mark on a certified survey, and the Flood Elevation Line (3 feet above OHWM) if any;
b. All existing and proposed structures including decks and roof overhangs;
c. Setbacks for existing and proposed structures (varies by zoning district).

[ ] Front elevation diagram drawn to scale.

Peninsula Township Variance Application
Practical Difficulty Worksheet

In order for a variance to be justified, the applicant must demonstrate that strict application of the provisions of the Peninsula Township Zoning Ordinance to petitioned property would result in **Practical Difficulty** (defined in Article III of the Ordinance) inconsistent with the general purpose and intent of the Ordinance.

The Applicant must answer the following questions pertaining to practical difficult in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 3.2, Practical Difficulty: To obtain a dimensional variance, the applicant must show *practical difficulty* by demonstrating **all** of the following:

1. **Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome.**

   Is this condition met? Please explain: Yes. Prevention of granting easement would prevant use of the property. The road variance would be necessary would preserve the property right of this owner to place a road for access.

2. **A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others.**

   Is this condition met? Please explain: Yes. Other property owners have placed roads in order to access their property. In order to construct a place of residence a road for access would be necessary.

3. **The plight of the owner is due to unique circumstances of the property.**

   Is this condition met? Please explain: Yes. Shorewood Drive legally pre-existed prior to the date of the township ordinance and prior to the date of ownership. Width of the road is and always has been less than 33'.

4. **The problem was not self-created.**

   Is this condition met? Please explain: Yes. The road pre-existed current ownership, is not of my making and is beyond my control. The variance would not be detrimental to the purposes, property or vicinity in which property is located but would enhance values. Allocation of the lot dictated by trust.

Peninsula Township Variance Application
Basic Conditions Worksheet

In order for a variance to be justified, the Applicant must meet **all of the Basic Conditions,** as defined in Section 5.7.3(1) of the Peninsula Township Zoning Ordinance. The Applicant must answer the following questions pertaining to the Basic Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(1) Basic Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided all of the Basic Conditions listed herein can be satisfied.**

(1) **BASIC CONDITIONS:** The applicant must meet ALL of the following Basic Conditions. That any variance from this Ordinance:

a. **Will not be contrary to the public interest or to the intent and purpose of this Ordinance.**

Is this condition met? Please explain: Yes. Request for road variance to access private property from private road which pre-existed current ownership

b. **Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use or dimensional variance for which a conditional use permit is required.**

Is this condition met? Please explain: Yes. Would permit use of property for residence of owner

c. **Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.**

Is this condition met? Please explain: Yes. Would improve, or maintain current property values through improvement of property.

d. **Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.**

Is this condition met? Please explain: Yes. Other property owners have established roads to access their property and places of residence

e. **Will relate only to property that is under control of the applicant.**

Is this condition met? Please explain: Yes. Private road on legally owned property.

Peninsula Township Variance Application
Special Conditions Worksheet

In order for a variance to be justified, the applicant must meet **at least one of the Special Conditions**, as defined in Section 5.7.3(2) of the Peninsula Township Zoning Ordinance. The applicant must answer the following questions pertaining to the Special Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(2) Special Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided at least one of the Special Conditions listed herein can be satisfied.**

(2) **SPECIAL CONDITIONS:** When ALL of the foregoing Basic Conditions can be clearly demonstrated, the applicant must meet at least ONE of the following Special Conditions:

a. **Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.**

Is this condition met? Please explain: _____

b. **Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted for any act of the applicant subsequent to the adoption of this Ordinance.**

Is this condition met? Please explain: _____

c. **Where the lot or parcel of land was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance.** - See attached survey

Is this condition met? Please explain: Yes. Recorded survey 7/7/48 states "that the streets as shown on said plot are hereby dedicated to the use of the lot owners." The road as surveyed is 30' wide. Initial purchase was 1956 but together, would this be considered grandfathered.

d. **Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.**

Is this condition met? Please explain: Yes. Other property owners have been able to establish roads to access their property.

CERTIFICATE OF SURVEY

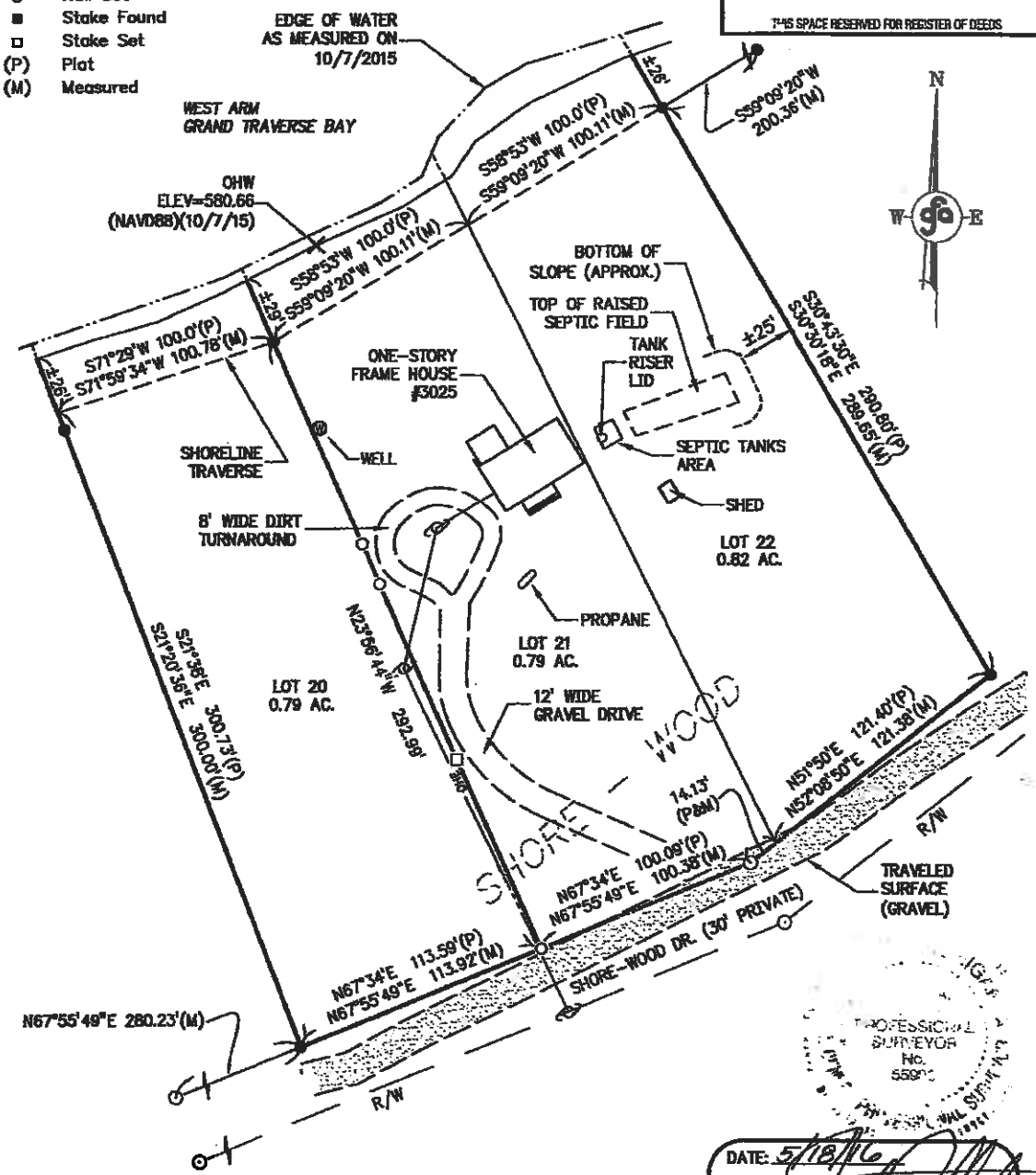
Legend

- ● Iron Found
- ○ Iron Set
- ⊙ Monument Found
- ⊕ Monument Set
- ◐ Nail Found
- ⊗ Nail Set
- ■ Stake Found
- □ Stake Set
- (P) Plat
- (M) Measured

GRAPHIC SCALE: 1 inch = 60 feet

0 30 60 120 180

THIS SPACE RESERVED FOR REGISTER OF DEEDS



PROFESSIONAL SURVEYOR No. 55905

DATE: 5/18/16

(SIGNED) JASON A. JULLERET
Registration No. 55905

I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE HEREON DESCRIBED PARCEL(S) OF LAND; THAT THE RATIO OF CLOSURE OF THE UNADJUSTED FIELD OBSERVATIONS IS 1 IN 5000+ AND WITHIN THE ACCEPTED LIMITS AND THAT I HAVE FULLY COMPLIED WITH THE REGULATIONS OF ACT 132, P.A. 1970, AS AMENDED.

PREPARED FOR: **RUTH PALMER TRUST**

BASIS OF BEARINGS: NAD 83 MICHIGAN CENTRAL ZONE

PH 231.946.5874
FAX 231.946.3703
WWW.gfa.tc
123 W. Front Street
Traverse City, MI 49684

Gourdie-Fraser
Municipal | Development | Transportation

Location: 3825 SHORE-WOOD DR.
PART OF SECTION 27,
TOWN 30 NORTH, RANGE 10 WEST
PENINSULA TOWNSHIP, GRAND TRAVERSE COUNTY, MI

DATE:	10/9/15
PM:	STEVEN P. BYE
DR: MJC	CKD: JAJ
	15324
SHT 1 OF 1	

THESE DOCUMENTS ARE PREPARED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONTRACT FOR THIS PROJECT.

REV: .

COPY

SHORE - WOOD

PART OF LOT 1, SEC. 28 & LOT 3, SEC. 27
T.30N., R.10W., PENINSULA TWP., GRAND TRAVERSE
COUNTY, MICHIGAN.

SCALE: 1 INCH = 100 FEET.

0 50 100 200 300 400 500 FT.

ALL DIMENSIONS ARE IN FEET & DECIMALS

LEO V. NOTHSTINE — REGISTERED LAND SURVEYOR — MANCELONA, MICH.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that we,
GEORGE I. ALTENBURG
AND
HELEN P. ALTENBURG, HIS WIFE,

as proprietors, have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as "Shore-Wood", a part of Lot 1, Sec. 28 and Lot 3, Sec. 27, T.30 N., R.10 W., Peninsula Township, Grand Traverse County, Michigan.

and that the streets shown on said plat are hereby dedicated to the use of THE LOT OWNERS.

Signed and Sealed in the Presence of:
KYLE HECHTER (Witness) GEORGE I. ALTENBURG (L.S.)
LEONARD SCHONEBAUM (Witness) HELEN P. ALTENBURG (L.S.)

ACKNOWLEDGMENT

STATE OF MICHIGAN
County of ..... ss.
On this ..... day of ..... 19..., before me, a Notary Public in and for said County, personally came the above named .....
.....
.....
known to me to be the persons who executed the above dedication and acknowledged the same to be their free act and deed.

CENTHWAY A. LARSEN
Notary Public in ..... County
My Commission expires .....

DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "Shore-Wood", a part of Lot 1, Sec. 28 and Lot 3, Sec. 27, T.30N., R.10W., Peninsula Township, Grand Traverse County, Michigan, is described as follows:

(see E.of L. here READ IN PAR. of E. & West, Sec. 28 T30N., R.10W.)

Beginning at the NW corner of the recorded plat of Mission Acres; thence S. 88°36'E. 313.2 ft., along the N. line of said plat, thence N. 1°31'W. 278.21 ft., thence N. 36°10'E., 169.2 ft., thence N. 76°58'E. 277.1 ft., thence N.71°41'E. 487.0 ft., thence N. 67°34'E. 500.2 ft., thence N. 81°50'E. 1350.65 ft. to a point in the W. 1/8th line of Sec. 27; thence N. 1°05'E. 330 ft. along said 1/8th line, thence S. 74°19'W. 200. ft., thence S. 49°37'W. 1000 ft., thence S. 88°52'W. 400. ft., thence S. 71°29'W. 1200. ft., thence S. 54°47'W. 100. ft., thence S. 32°56'W. 800. ft., thence S. 6° 34'E. 408.15 ft. to place of beginning.

TOWNSHIP APPROVAL

This plat was approved by the Peninsula Township Board of the Peninsula Township at a meeting held Jan. 2, 1968.

PAY SOHN (Clerk)

APPROVAL BY COUNTY BOARD

This plat was approved on the 7th day of July, 1968.

GEORGE A. SUNDERS (County Register of Deeds)
JOHN L. KILMER (County Clerk)
EDWIN WILSON (County Treasurer)

APPROVAL BY BOARD OF COUNTY ROAD COMMISSIONERS

This plat has been examined and was approved on the 7th day of July, 1968, by the Grand Traverse County Board of Road Commissioners.

H. G. ROE (Chairman)
[illegible] (Member)
E. X. WEBB (Member)

COUNTY TREASURER'S CERTIFICATE

Office of County Treasurer, Grand Traverse County.

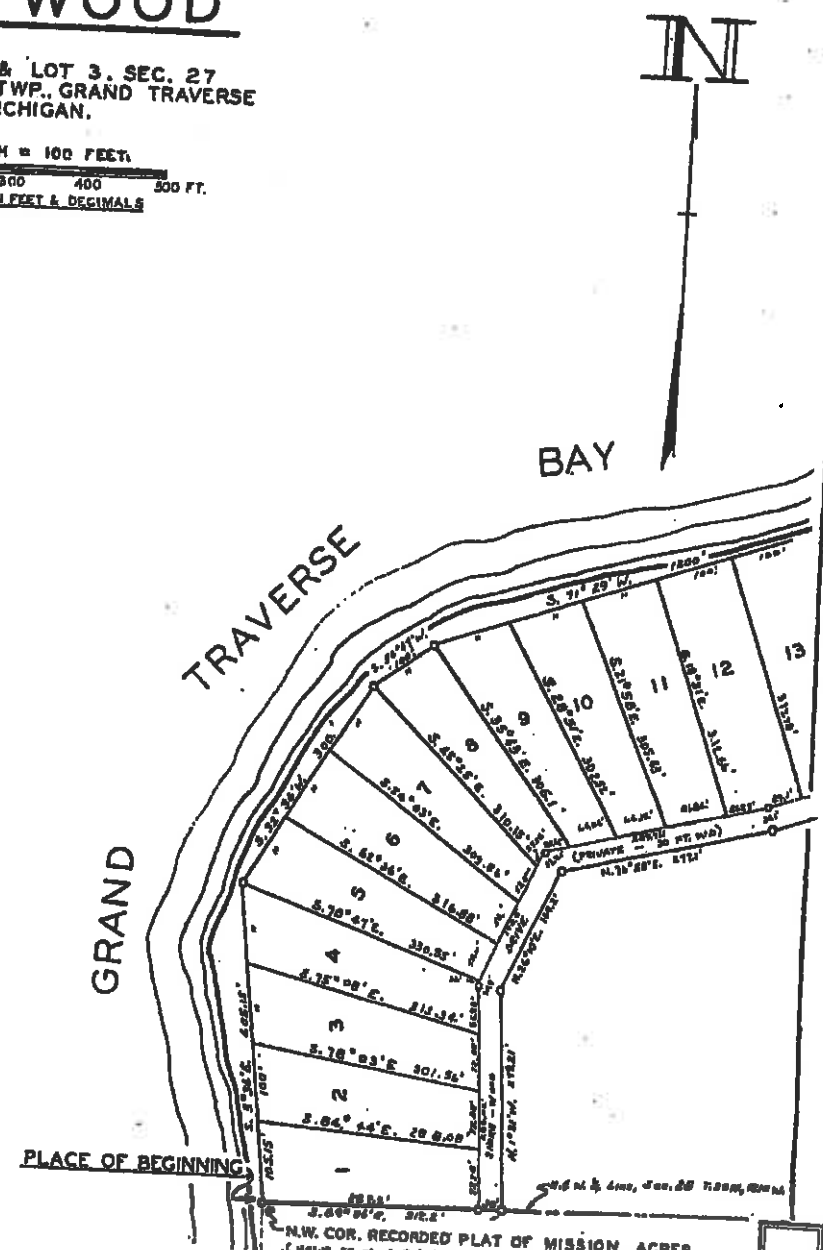
I hereby certify, that there are no tax liens or titles held by the State on the lands described hereon, and that there are no tax liens or titles held by individuals on said lands, for the five years preceding the ..... day of ..... 19..., and that the taxes for said period of five years are all paid, as shown by the records of this office, except .....
.....
This certificate does not apply to taxes, if any, now in process of collection by township, city or village collecting officer.

EDWIN WILSON (County Treasurer)

SURVEYOR'S CERTIFICATE

I hereby certify that the plat hereon delineated is a correct one and that permanent metal monuments consisting of bars not less than one-half inch in diameter and 24 inches in length, encased in concrete cylinders at least 4 inches in diameter and 24 inches in depth have been placed at points marked thus (.....) as shown above at all angles in the boundaries of the land platted, at all the intersections of streets, intersections of alleys, at of streets and alleys, and at the intersections of streets and alleys with the boundaries of the plat.

LEO V. NOTHSTINE Registered Land Surveyor



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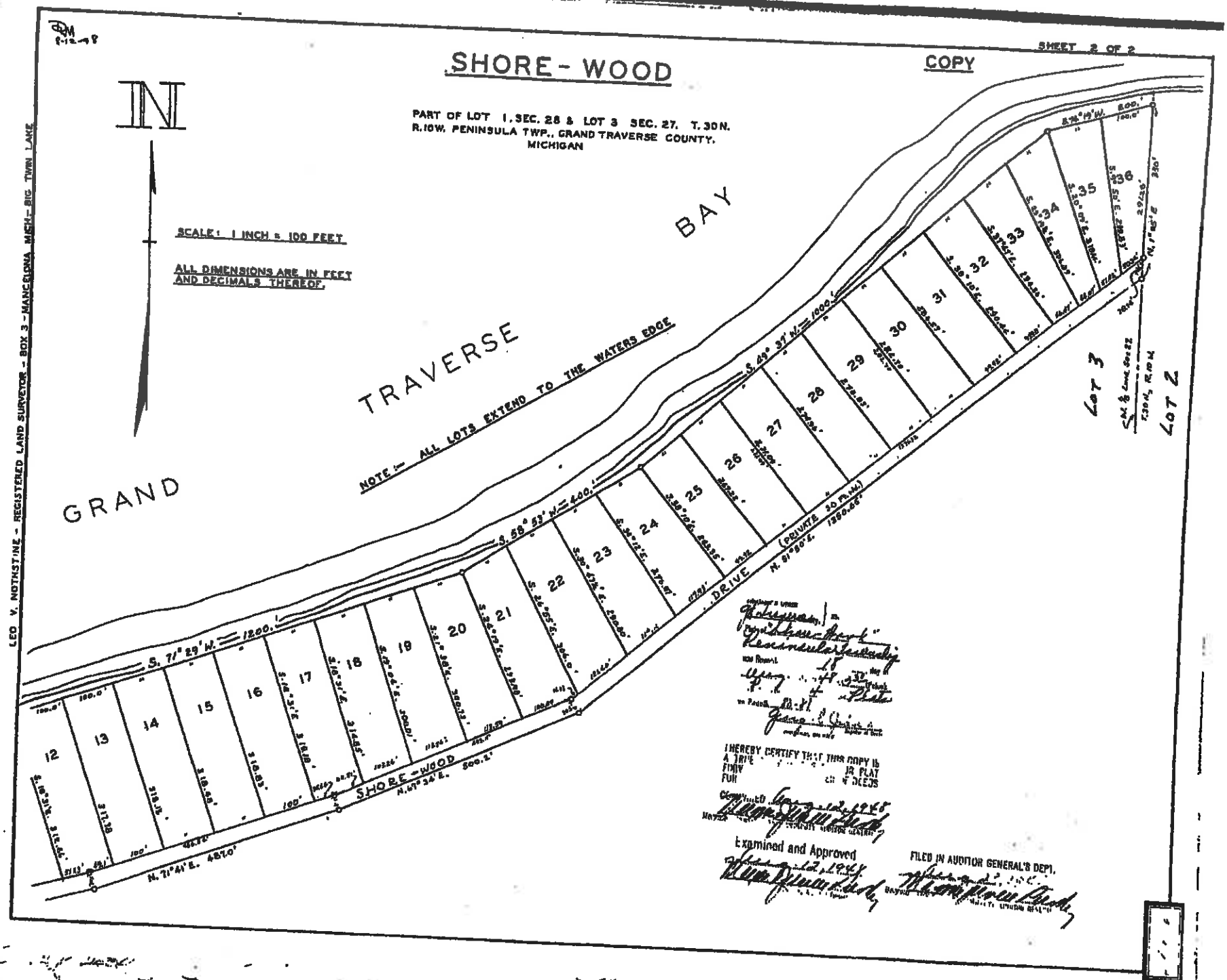
SHEET 2 OF 2
SHORE - WOOD
COPY
PART OF LOT 1, SEC. 28 & LOT 3 SEC. 27. T. 30 N. R. 10 W. PENINSULA TWP., GRAND TRAVERSE COUNTY, MICHIGAN
N
SCALE: 1 INCH = 100 FEET
ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
GRAND TRAVERSE BAY
NOTE:— ALL LOTS EXTEND TO THE WATERS EDGE
S. 71° 29' W. — 1200.'
S. 58° 53' W. — 400.'
S. 49° 37' W. — 1000.'
S. 76° 19' W. 800.'
SHORE - WOOD DRIVE (PRIVATE 30 FT. WD.)
N. 71° 41' E. 487.0'
N. 67° 34' E. 500.2'
N. 81° 50' E. 1350.66'
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LOT 3
LOT 2
LEO V. NOTHSTINE - REGISTERED LAND SURVEYOR - BOX 3 - MANCELONA MICH. - BIG TWIN LAKE
I HEREBY CERTIFY THAT THIS COPY IS A TRUE ... FOR ... PLAT ... DEEDS
Examined and Approved
FILED IN AUDITOR GENERAL'S DEPT.

COPY

SHORE - WOOD

PART OF LOT 1, SEC. 28 & LOT 3, SEC. 27
T.30N., R.10W., PENINSULA TWP., GRAND TRAVERSE
COUNTY, MICHIGAN.

SCALE: 1 INCH = 100 FEET.

0 50 100 200 300 400 500 FT.

ALL DIMENSIONS ARE IN FEET & DECIMALS

LEO V. NOTHSTINE — REGISTERED LAND SURVEYOR — MANCELONA, MICH.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that we

GEORGE I. ALTENBURG

AND

HELEN P. ALTENBURG, HIS WIFE

as proprietors, have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as "Shore-Wood", a part of Lot 1, Sec. 28 and Lot 3, Sec. 27, T.30 N., R.10 W., Peninsula Township, Grand Traverse County, Michigan

and that the streets as shown on said plat are hereby dedicated to the use of THE LOT OWNERS.

Signed and Sealed in the presence of:

LYLE HEFRICH (Witness) GEORGE I. ALTENBURG (L.S.)

LEONARD BOBKOWSKI (Witness) HELEN P. ALTENBURG (L.S.)

ACKNOWLEDGMENT

STATE OF MICHIGAN
County of ..... ss.

On this ..... day of ..... 19..., before me, a Notary Public in and for said County, personally came the above named .....

.....

.....

known to me to be the persons who executed the above dedication and acknowledged the same to be their free act and deed.

GERTRUDE M. LARSEN
Notary Public, ... County
My Commission expires .....

DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "Shore-Wood", a part of Lot 1, Sec. 28, and Lot 3, Sec. 27, T.30N., R.10 W., Peninsula Township, Grand Traverse County, Michigan

is described as follows:

Commencing at E.¼ & Intr. (242.48 Ft.) of E.¼ Port. Sec. 28 T.30N., R.10W.

Beginning at the NW corner of the recorded plat of Mission Acres; thence S. 89°36'E. 312.2 ft., along the N. line of said plat, thence N. 1°31'W. 379.21 ft., thence N. 26°10' E., 159.2 ft., thence N. 76°58'E. 277.1 ft., thence N.71°41' E. 467.0 ft., thence N. 67°34'E. 500.2 ft., thence N. 51°50' E. 1360.43 ft. to a point in the W. 1/8th line of Sec. 27; thence N. 1°05'E. 330 ft. along said 1/8th line, thence S. 74°19'W. 200. ft., thence S. 49°37'W. 1000 ft., thence S. 58°58'W. 400. ft., thence S. 71°29'W. 1200. ft., thence S. 54°47'W. 100. ft., thence S. 32°36'W. 300. ft., thence S. 8° 34'E. 405.15 ft. to place of beginning.

TOWNSHIP APPROVAL

This plat was approved by the Township Board of the Township of Peninsula at the Township Hall at a meeting held January 21, 19..

FAY DOHM (Clerk)

APPROVAL BY COUNTY BOARD

This plat was approved on the 7th day of July, 19.48

July 1948

GEORGE E. JOHNSON (County Register of Deeds)

JOHN L. KILMER (County Clerk)

EDWIN WILSON (County Treasurer)

APPROVAL BY BOARD OF COUNTY ROAD COMMISSIONERS

This plat has been examined and was approved on the 7th day of July, 19.48 by the Board of County Road Commissioners.

H. S. FOX (Chairman)

DUNCAN MORRISON (Member)

E. A. WOOD (Member)

COUNTY TREASURER'S CERTIFICATE

Office of County Treasurer, Grand Traverse County,

I hereby certify, that there are no tax liens or titles held by the State on the lands described hereon, and that there are no tax liens or titles held by individuals on said lands, for the five years preceding the ..... day of ..... 19..., and that the taxes for said period of five years are all paid, as shown by the records of this office, except .....

This certificate does not apply to taxes, if any, now in process of collection by township, city or village collecting officers.

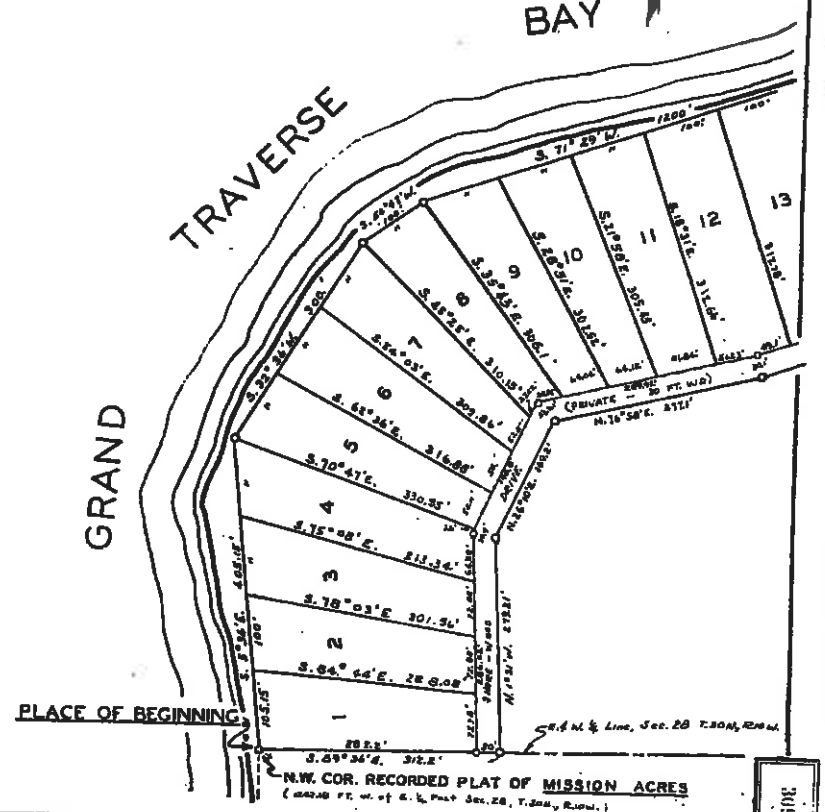
EDWIN WILSON (County Treasurer)

SURVEYOR'S CERTIFICATE

I hereby certify that the plat hereon delineated is a correct one and that permanent metal monuments consisting of bars not less than one-half inch in diameter and 24 inches in length, encased in concrete cylinders at least 4 inches in diameter and 48 inches in depth have been placed at points marked thus (.....) as shown on all angles in the boundaries of the land platted, at all the intersections of streets, intersections of alleys, or of streets and alleys, and at the intersections of streets and alleys with the boundaries of the plat.

Leo V. Nothstine 5048

LEO V. NOTHSTINE Registered Land Surveyor



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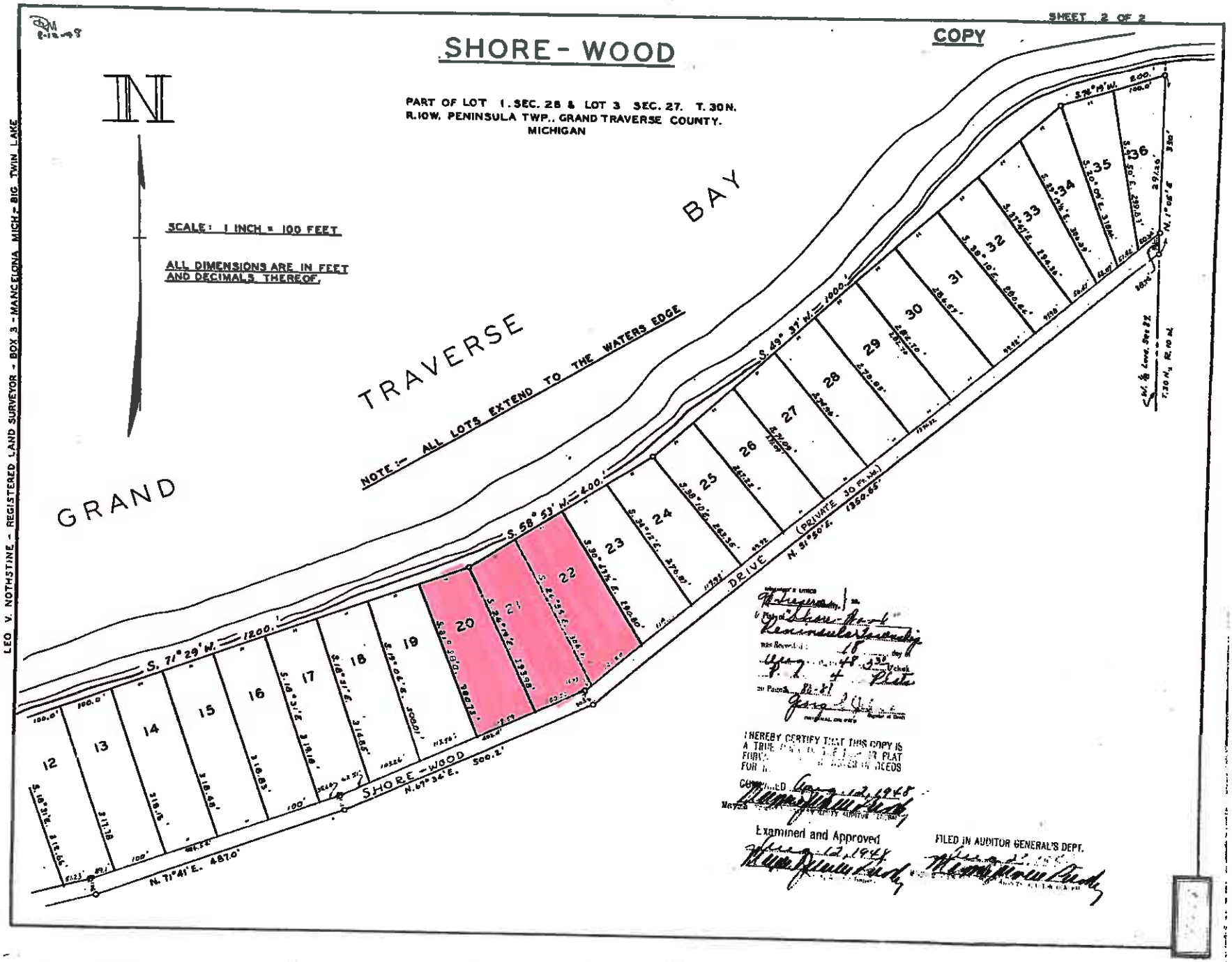
SHEET 2 OF 2
COPY
SHORE - WOOD
PART OF LOT 1. SEC. 28 & LOT 3 SEC. 27. T. 30 N. R. 10 W. PENINSULA TWP., GRAND TRAVERSE COUNTY. MICHIGAN
N
SCALE: 1 INCH = 100 FEET
ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
NOTE:— ALL LOTS EXTEND TO THE WATERS EDGE
GRAND TRAVERSE BAY
S. 71° 29' W. = 1200.'
S. 58° 53' W. = 400.'
S. 49° 37' W. = 1000.'
S. 76° 19' W. 200.'
N. 71° 41' E. 487.0'
N. 67° 34' E. 500.2'
N. 51° 50' E. 1350.65'
SHORE - WOOD DRIVE (PRIVATE 30 Ft. Rd.)
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LEO V. NOTHSTINE - REGISTERED LAND SURVEYOR - BOX 3 - MANCELONA MICH - BIG TWIN LAKE
Examined and Approved
FILED IN AUDITOR GENERAL'S DEPT.

LEGAL NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on September 8, 2016 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 856, Zoning R-1B
Applicant: Michelle Amaly Recchia, 2630 Rawasi Ave., Traverse City, MI 49685
Owner: Michelle Amaly Recchia, 2630 Rawasi Ave., Traverse City, MI 49685
Property Address: 2755 Shore Wood Dr., Traverse City, MI 49686

Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.

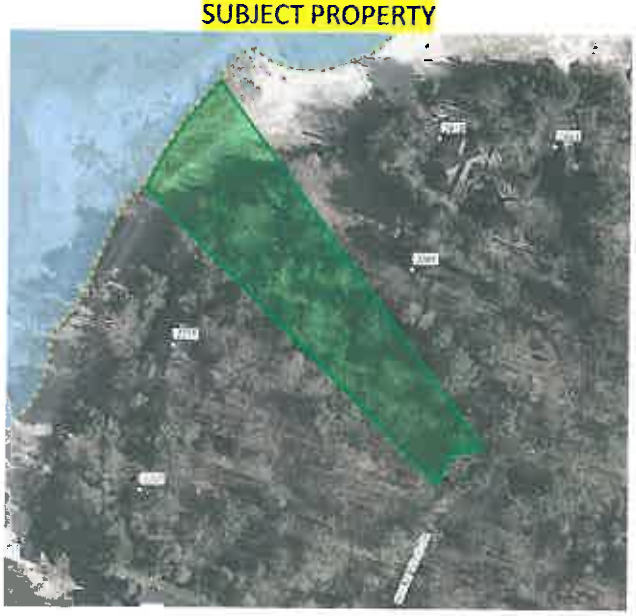
Parcel Code No. 28-11-635-008-00

Please be advised that the public may appear at the public hearing in person or by council.

Written comment may be submitted to Peninsula Township Planning & Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 4:30 PM on the date of the hearing.

If you are planning to attend the meeting and are disabled requiring any special assistance, please so notify the Planning & Zoning Department at (231) 223-7322 or call TDD at (231) 922-4766.

SUBJECT PROPERTY



Peninsula Township Planning & Zoning Department
STAFF REPORT

ZBA Request #856 – 2755 Shore Wood Drive
September 8, 2016

To: **Peninsula Township Zoning Board of Appeals**

From: **Claire Schoolmaster, Planning & Zoning**

RE: **Request No. 856 – 2755 Shore Wood Drive**

Hearing Date: **September 8, 2016 – 7:00 PM**

Applicant: **Michelle Amaly Recchia, 2630 Rawasi Ave, Traverse City, MI 49685**

Site: **2755 Shore Wood Drive, Traverse City, MI 49686**

Tax IDs: **28-11-635-008-00**

Information:

- Parcel 28-11-635-008-00 is approximately 0.707 acres in size.
- The property is zoned Coastal Zone Single and Two-Family (R-1B); the surrounding area is also zoned Coastal Zone Single and Two-Family (R-1B).
- The lot was created in 1942, before the adoption of the Peninsula Township Zoning Ordinance.
- The property fronts Shore Wood Drive, a non-conforming private road.
- The variance requested is for the construction of a single family residence. This requires the elimination of the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements.
- The proposed single family residence conforms to all applicable zoning standards, including setbacks, lot coverage, and height.

Action Requested: (1) variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.

Mailing: Twenty (20) surrounding property owners were notified. No comments were received as of September 1, 2016.

Applicant Statement: Please see the enclosed application submitted by Michelle Amaly Recchia, property owners.

Staff Comments:
Request #1

The variance requested is for the construction of a single family residence. This requires the elimination of the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements.

Background
The proposed single family residence conforms to relevant zoning standards for minimum lot setbacks, lot coverage, and height.

The applicant requests (1) variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence. The requested variance must meet the following standards in order to be granted. Specific staff comments follow the standards.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The subject property, zoned R-1B, was created before the effective date of the Ordinance. The width is approximately 55.89 feet and the length is approximately 308.125 feet.

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #856 – 2755 Shore Wood Drive
September 8, 2016

DECISION AND ORDER

Applicant: Michelle Amaly Recchia, 2630 Rawasi Ave, Traverse City, MI 49685

Hearing Date: September 8, 2016

PROPERTY DESCRIPTION

The property of 2755 Shore Wood Drive, Traverse City, MI 49686, Parcel No. 28-11-635-008-00 herein after referred to as the "property".

APPLICATION

Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.

The Board having considered the Application, a public hearing having been held on September 8, 2016, after giving due notice as required by law, the Board having heard the statements of the Applicant and agents, the Board after having considered letters submitted by members of the public and comments by members of the public, the Board having considered five (5) exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned Coastal Zone Single and Two-Family (R-1B). (Exhibits 1, 2)

2. The Board finds that the lot was created in 1942, before the adoption of the Zoning Ordinance. (Exhibit 1, 2, 5)

3. The Board finds that Section 7.10.11 Existing Non-Conforming Frontage Roads requires that existing frontage roads are improved in terms of grade, roadbed, shoulder, and pavement requirements, and prior to the issuance of a Land Use Permit. (Exhibit 2)

4. The Board finds that there is a building envelope located on the property. (Exhibits 1, 2)

5. The Board finds that the applicant requests to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence. (Exhibit 2)

6. The Board finds that the proposed single family residence meets all applicable zoning standards, including setbacks, lot coverage, and height. (Exhibits 2, 3, 4)

Variance Request #1 A variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1B zoning district. (Exhibits 1, 2)

b. The Board finds that Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibit 2)

c. The Board finds that the proposed structure is a single family residence which complies with the uses allowed in the R-1B zoning district. The Board further finds that the proposed structure complies with all applicable zoning standards. (Exhibits 2, 3, 4)

d. The Board finds that according to Section 4.1.3 a Land Use Permit is required to construct a structure of greater than twenty-five square feet. The Board further finds that according to Section 7.10.11 existing non-conforming frontage roads must meet the grade, roadbed, shoulder, and paving requirements prior to the issuance of a Land Use Permit. (Exhibit 2)

e. The Board finds that Shore Wood is an existing legal non-conforming frontage road. The Board finds that given the property fronts Shore Wood Drive the ability to construct any structure is prohibited unless the frontage road is brought to Peninsula Township Zoning Ordinance standard or a variance granted. As such the Board finds that the requested variance is necessary for the owner to use the property for a permitted purpose. (Exhibit 2)

f. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

The following findings may support this standard HAS been met.

a. The Board finds that Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibits 2, 5)

b. The Board finds that Shore Wood Drive is an existing non-conforming frontage road. The Board finds that given the property which fronts Shore Wood Drive the ability to construct any structure is prohibited unless the frontage road is brought to standard or a variance granted. (Exhibits 2, 3, 4, 5)

c. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two Family (R-1B) and according to Section 6.2.2(2) a single family residence is a use by right in that zoning district. (Exhibits 2, 5)

b. The Board finds that the construction of the proposed structure will result in residential use. (Exhibits 3, 4)

c. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1B zoning district. (Exhibits 1, 2)

b. The Board finds that Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibit 2)

c. The Board finds that the proposed structure is a single family residence which complies with the uses allowed in the R-1B zoning district. The Board further finds that the proposed structure complies with all applicable zoning standards. (Exhibits 2, 3, 4)

d. The Board finds that according to Section 4.1.3 a Land Use Permit is required to construct a structure of greater than twenty-five square feet. The Board further finds that according to Section 7.10.11 existing non-conforming frontage roads must meet the grade, roadbed, shoulder, and paving requirements prior to the issuance of a Land Use Permit. (Exhibit 2)

e. The Board finds that Shore Wood is an existing legal non-conforming frontage road. The Board finds that given the property fronts Shore Wood Drive the ability to construct any structure is prohibited unless the frontage road is brought to Peninsula Township Zoning Ordinance standard or a variance granted. As such the Board finds that the requested variance is necessary for the owner to use the property for a permitted purpose. (Exhibit 2, 5)

f. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

The following findings may support this standard HAS been met.

a. The Board finds that the construction of a single family residence is an improvement which will likely increase the value of the subject property. The Board further finds that generally the construction of a single family residence is unlikely to decrease the values of any neighboring properties. (Exhibit 2, 3)

b. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two Family (R-1B) and according to Section 6.2.2(2) a single family residence a use by right in that zoning district. (Exhibits 2)

d. The Board finds that the construction of the proposed structure will result in residential use. (Exhibits 3, 4)

b. The Board finds that

The following findings may support this standard HAS NOT been met.

a. The Board finds that

This standard HAS / HAS NOT been met.

VARIANCE REQUEST # 1 MOTION TO APPROVE / DENY

The Peninsula Township Board of Appeals has **APPROVED / DENIED** your request for a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.

CONDITIONS OF APPROVAL

1.
2.
3.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #1 be **APPROVED / DENIED**.

TIME PERIOD FOR JUDICIAL REVIEW

Mcl 125.3606 provides that any party aggrieved by a decision of the Zoning Board of Appeals may appeal that decision to the Circuit Court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the ZBA, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.

DATE DECISION AND ORDER ADOPTED

_____ Date	_____ Chairperson
_____ Date	_____ Vice Chairperson
	_____ Secretary

Peninsula Township Planning & Zoning Department
EXHIBIT LIST

ZBA Request #856 – 2755 Shore Wood Drive
September 8, 2016

EXHIBIT LIST

1. Peninsula Township Master Plan
2. Peninsula Township Zoning Ordinance
3. Request for Variance filed by Michelle Recchia, property owner
4. Staff report from Peninsula Township Planning & Zoning Department
5. Recorded Shore Wood Plat, approved July 1948

Peninsula Township Variance Application

Application Guidelines

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

1. Zoning Board of Appeals (ZBA) applications are available from the Peninsula Township Planning & Zoning Department, 7:30 a.m. to 6:30 p.m., Monday, and 7:30 a.m. to 5:00 p.m. Tuesday through Thursday, or online at www.peninsulatownship.com/zoning.

2. **Applications must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the ZBA meeting. Ten (10) copies must be submitted.**

3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.

4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.

5. It is the applicant's responsibility to ensure that the application is complete upon submission. **Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.** An incomplete application will not be considered for review by the ZBA.

6. The application will be forwarded to members of the ZBA for a public hearing.

7. A notice of the public hearing must be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.

8. The applicant will receive a notice of the public hearing in the mail, and is expected to attend the meeting.

9. ZBA meetings are held on the second Thursday of every month, beginning at 7:00 p.m. in the Township Hall, 13235 Center Road, Traverse City, MI 49686.

10. If the variance(s) are granted, **construction authorized by such variance(s) must begin within six (6) months after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance must take place within one (1) year after the granting of the variance.**

11. If the variance(s) are granted, construction authorized by such variance(s) must comply with all other necessary permits. **A variance is independent from, and does not substitute for, all other permits.**

12. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

OFFICE USE ONLY		
Date Received:	Fee Received:	Board Action:
Date Complete:	Meeting Date:	

Peninsula Township Variance Application
General Information

A fully completed application form, fee, and all related documents must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the Zoning Board of Appeals meeting. **10 copies are required.**

Applicant Information

Applicant: Name **Michelle Amaly Recchia**

Address Line 1 **2630 RaWaSI**
Address Line 2 **Traverse City, MI 49685**
Phone _____ Cell **231-632-0969**
E-mail **makrecchia@yahoo.com**

Owner: Name **same as above**
Address Line 1 _____
Address Line 2 _____
Phone _____ Cell _____
E-mail _____

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

Property Information

Parcel ID **28-11635-008-00** Zoning **R-1B Coastal**
Address Line 1 **2755 Shore Wood Drive**
Address Line 2 **Traverse City, MI 49686**

Type of Request

Indicate which Ordinance requirement(s) are the subject of the variance request:

[ ] Front Yard Setback [ ] Side Yard Setback [ ] Rear Yard Setback
[ ] Width to Depth Ratio [ ] Lot Coverage [ ] Off-Street Parking
[ ] Signage [ ] Height/Width [ ] Non-Conformity Expansion
[X] Other: Please Describe: **Section 7.10.4 and 7.10.11 Road Standards**

Attachments

[X] $375 Fee

[X] Basic Conditions Worksheet

[X] Site plan drawn to scale showing the following:

a. Property boundaries; Shoreline properties must show the Ordinary High Water Mark on a certified survey, and the Flood Elevation Line (3 feet above OHWM) if any;
b. All existing and proposed structures including decks and roof overhangs;
c. Setbacks for existing and proposed structures (varies by zoning district).

[X] Front elevation diagram drawn to scale.

Peninsula Township Variance Application

Basic Conditions Worksheet

In order for a variance to be justified, the Applicant must meet **all of the Basic Conditions**, as defined in Section 5.7.3(1) of the Peninsula Township Zoning Ordinance. The Applicant must answer the following questions pertaining to the Basic Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(1) Basic Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided all of the Basic Conditions listed herein can be satisfied.**

(1) **BASIC CONDITIONS:** The applicant must meet ALL of the following Basic Conditions. That any variance from this Ordinance:

a) **That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.** Is this condition met? Please explain:

The need for the variance is related to Section 7.10.4 which specifies the width of the frontage road on which the property is located, and therefore applies to this, as well as all other properties on Shore Wood Drive. The plight is due to the unique circumstance of the property and does not apply generally to all properties in the district.

b) **The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.** Is this condition met? Please explain:

There are several roads in Peninsula Township deemed non-conforming by the Township based on Ordinance Section 7.10.11. Each of these roads were created well before the Ordinance and contain a unique history and changing road bed layouts that have evolved over a long period of time. Factors contributing to these road layouts were unique requirements related to ease of passage and protection of environmental

impediments such as mature trees, ponds, hillsides, etc. Shore Wood Drive was created in the 1940's well before the creation of the ordinance requiring a minimum right of way of 33 feet. The road has been used successfully by Shore Wood Drive property owners for 70 years.

c) **That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)** Is this condition met? Please explain:

Our property is located approximately 8/10ths of a mile from the beginning of Shore Wood Drive. As such, strict compliance with the ordinance would require us to improve over 3,500 feet of road. The road is owned by the Shore Wood Drive Association which consists of over thirty homeowners. The required agreement between the multiple owners of the road coupled with the cost we would incur to bring the road in to compliance would prove unnecessarily burdensome.

d) **That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.** Is this condition met? Please explain:

A significant percentage of properties throughout the district are located on non-conforming frontage roads (including over thirty properties on Shore Wood Drive). A lesser relaxation than that requested in this application would prohibit all property owners on non-conforming roads from obtaining any sort of land use permit and would thereby fail to provide substantial relief not only to the applicants, but all other property owners on non-conforming frontage roads. The Zoning Board has consistently granted variances to other property owners on non-conforming roads in similar situations as recently as 2014 and 2015 as evidenced by ZBA #'s 802, 819, 822, and 837. Granting of

this variance would be consistent with fairness and substantial justice to us and other property owners in the district.

e) **That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.** Is this condition met? Please explain:

The proposed construction of a single-family dwelling will increase the value of the subject property. Furthermore, the granting of this application is not only unlikely to decrease the values of any neighboring properties, but the denial of this application would in fact decrease the value of neighboring properties due to the establishment of the precedent that the width of the frontage road prohibits any property owner from obtaining a land use permit.

f) **That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.** Is this condition met? Please explain:

The property is zoned R-1B Coastal Zone Residential and according to Section 6.3.2 a single-family dwelling is a use by right in this zoning district.

SHEET 1 OF 2 SHEETS

COPY

SHORE - WOOD

PART OF LOT 1, SEC. 28 & LOT 3, SEC. 27
T.30N., R.10W., PENINSULA TWP., GRAND TRAVERSE
COUNTY, MICHIGAN.

SCALE: 1 INCH = 100 FEET.

0 50 100 200 300 400 500 FT.

ALL DIMENSIONS ARE IN FEET & DECIMALS

LEO V. NOTHSTINE — REGISTERED LAND SURVEYOR — MANCELONA, MICH.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that we

GEORGE I. ALTENBURG

AND

HELEN P. ALTENBURG, HIS WIFE,

as proprietors, have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as "Shore-Wood" a part of Lot 1, Sec. 28 and Lot 3, Sec. 27, T.30 N., R.10 W., Peninsula Township, Grand Traverse County, Michigan

and that the streets as shown on said plat are hereby dedicated to the use of THE LOT OWNERS.

Signed and Sealed in the Presence of:

LYLE HELFRICH (Witness) GEORGE I. ALTENBURG (L.S.)

LEONARD SOBKOWSK (Witness) HELEN P. ALTENBURG (L.S.)

ACKNOWLEDGMENT

STATE OF MICHIGAN
County of ..... } ss.

On this ..... day of ..... 19.., before me, a Notary Public in and for said County, personally came the above named .....

known to me to be the persons who executed the above dedication, and acknowledged the same to be their free act and deed.

GERTRUDE H LANDIE
Notary Public ..... County
My Commission expires .....

DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "Shore-Wood" a part of Lot 1, Sec. 28 and Lot 3, Sec. 27, T.30N., R.10 W., Peninsula Township, Grand Traverse County, Michigan,

is described as follows:

Beginning at the NW corner of the recorded plat of Mission Acres; thence S. 89°36'E. 312.2 ft., along the N. line of said plat, thence N. 1°31'W. 279.21 ft., thence N. 26°10' E., 169.2 ft., thence N. 76°58'E. 277.1 ft., thence N.71°41' E. 487.0 ft., thence N. 67°34'E. 500.2 ft., thence N. 51°50' E. 1350.65 ft. to a point in the W. 1/8th line of Sec. 27; thence N. 1°05'E. 330 ft. along said 1/8th line, thence S. 74°19'W. 200. ft., thence S. 49°37'W. 1000 ft., thence S. 58°53'W. 400. ft., thence S. 71°29'W. 1200. ft., thence S. 54°47'W. 100. ft., thence S. 32°36'W. 300. ft., thence S. 6° 34'E. 405.15 ft. to place of beginning.

TOWNSHIP APPROVAL

This plat was approved by the ..... of the ..... of ..... at a meeting held .....

FAY DOHN (Clerk)

APPROVAL BY COUNTY BOARD

This plat was approved on the 7th day of 1949

GEORGE E. JOHNSON (County Register of Deeds)

JOHN L. KILMER (County Clerk)

EDWIN WILSON (County Treasurer)

APPROVAL BY BOARD OF COUNTY ROAD COMMISSIONERS

This plat has been examined and was approved on the 7th day of ..... 1949 by the Grand Traverse County Board of Road Commissioners.

H. R. FOX (Chairman)

DUNCAN MORRISON (Member)

G. A. WOOD (Member)

COUNTY TREASURER'S CERTIFICATE

Office of County Treasurer, Grand Traverse County.

I hereby certify, that there are no tax liens or titles held by the State on the lands described hereon, and that there are no tax liens or titles held by individuals on said lands, for the five years preceding the ..... day of ..... 19.... and that the taxes for said period of five years are all paid, as shown by the records of this office, except .....

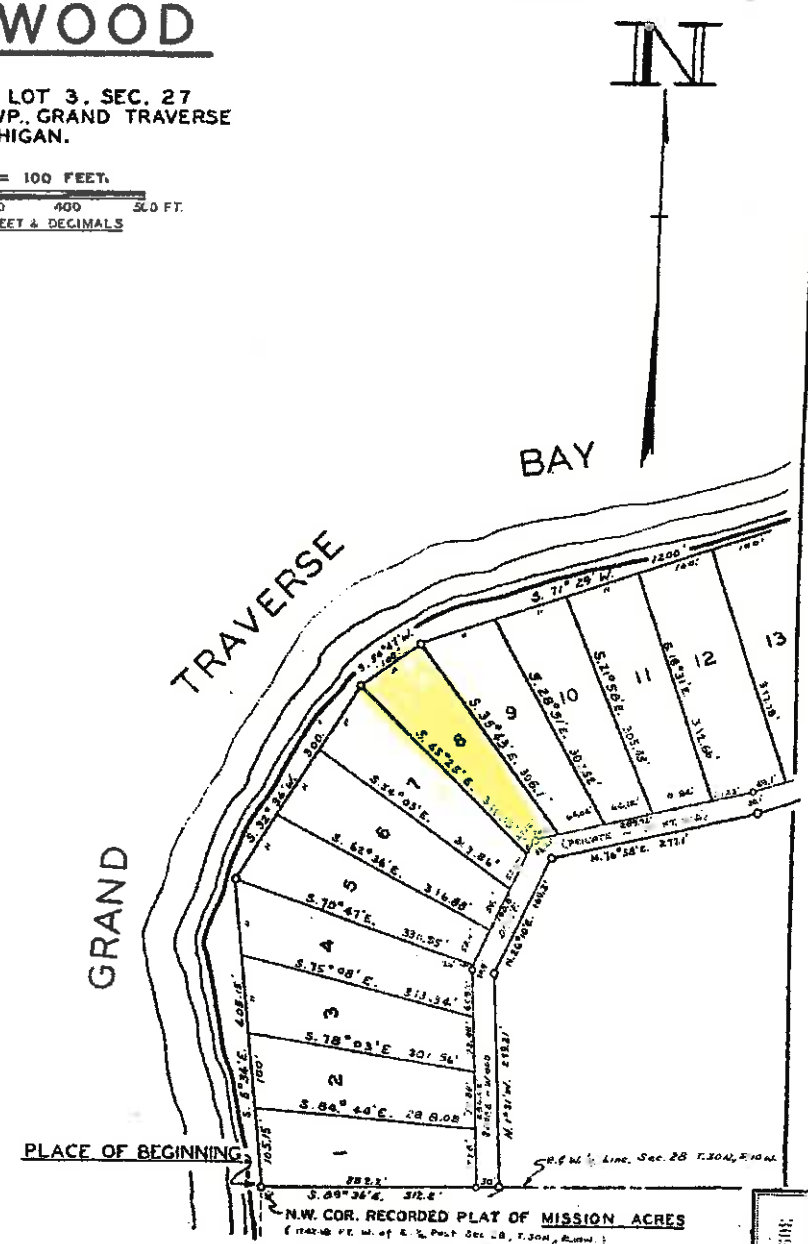
This certificate does not apply to taxes, if any, now in process of collection by township, city or village collecting officers.

EDWIN WILSON (County Treasurer)

SURVEYOR'S CERTIFICATE

I hereby certify that the plat hereon delineated is a correct one and that permanent metal monuments consisting of bars not less than one-half inch in diameter and 48 inches in length, encased in concrete cylinders of least 4 inches in diameter and 48 inches in depth have been placed at points marked thus (....) as the new shown or all angles in the boundaries of the land platted, at all the intersections of streets, intersections of alleys, or of streets and alleys, and at the intersections of streets and alleys with the boundaries of the plat.

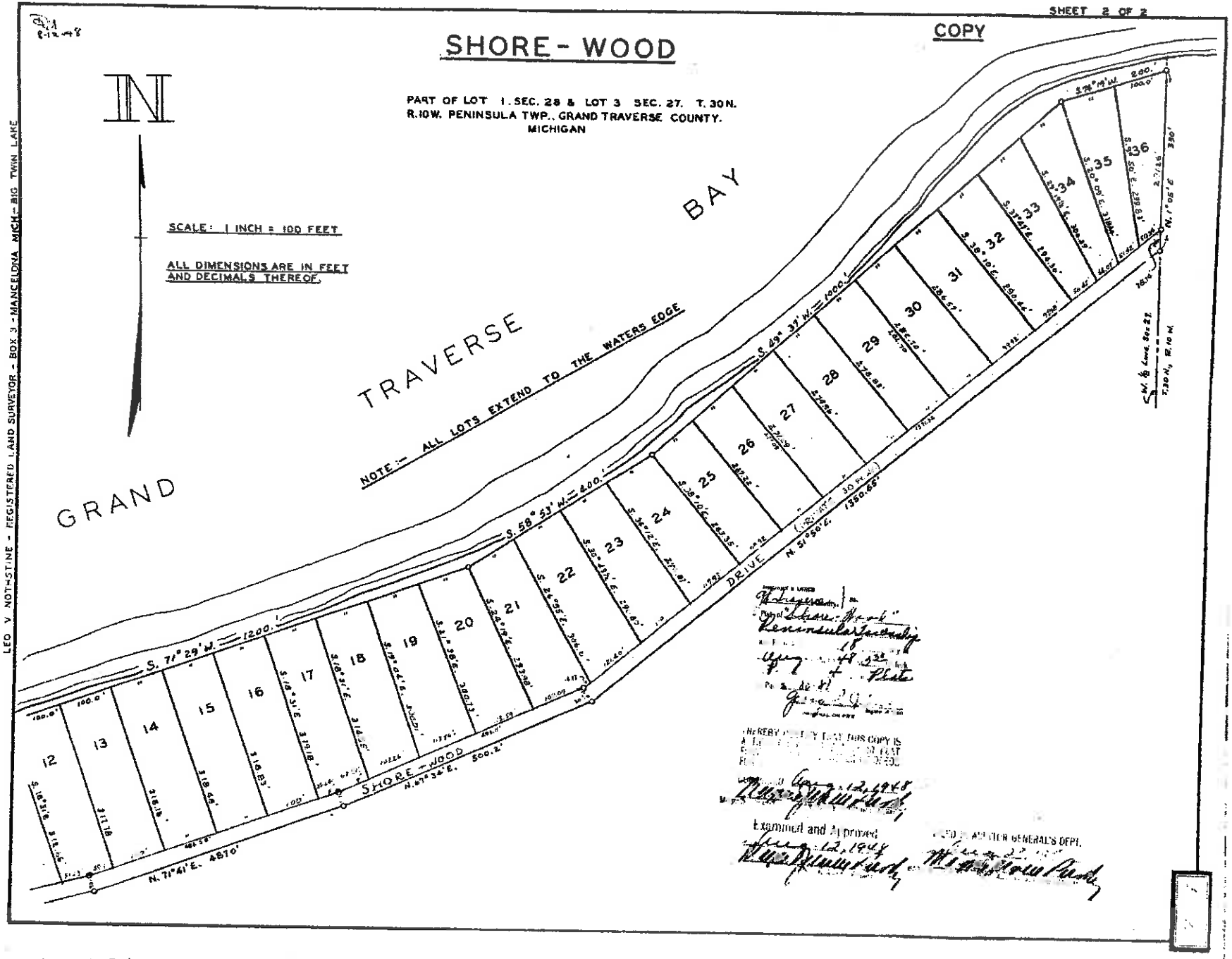
LEO V. NOTHSTINE Registered Land Surveyor



COPY

SHORE - WOOD

PART OF LOT 1. SEC. 28 & LOT 3 SEC. 27. T. 30 N.
R. 10 W. PENINSULA TWP., GRAND TRAVERSE COUNTY.
MICHIGAN



LEO V NOTHSTINE - REGISTERED LAND SURVEYOR - BOX 3 - MANCELONA MICH - BIG TWIN LAKE

Examined and Approved
Aug. 12, 1948

AUDITOR GENERAL'S DEPT.

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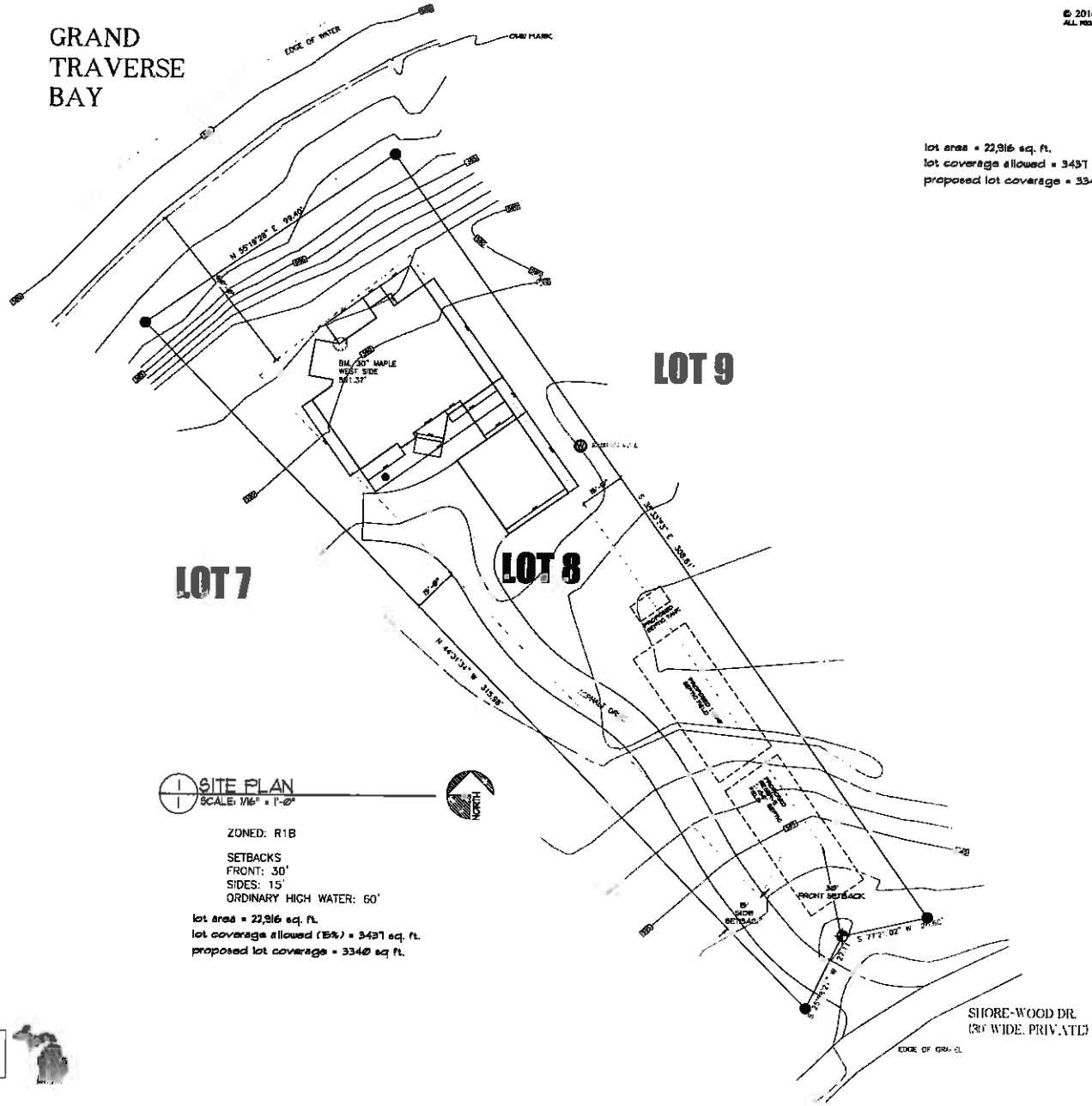


lot area = 22,916 sq. ft.
lot coverage allowed = 3437 sq. ft.
proposed lot coverage = 3340 sq ft.

1 SITE PLAN
SCALE: 1/16" = 1'-0"

NORTH

ZONED: R1B

SETBACKS
FRONT: 30'
SIDES: 15'
ORDINARY HIGH WATER: 60'

lot area = 22,916 sq. ft.
lot coverage allowed (15%) = 3437 sq. ft.
proposed lot coverage = 3340 sq ft.

Copyright Notice
Kenneth M Williams Residential Design LLC (DBA. Design Classics) retains title to, ownership of, and all presentation rights in the original, and all subsequent copies of the drawings, and any part thereof, regardless of the form or media to which and on which the original and other copies may exist. Title, ownership, and all other proprietary rights remain with Design Classics even if the drawings, or any part thereof, are modified by anyone, or are included in derived designs created or modified by anyone.

NOTE:
-PRELIMINARY CONCEPT DRAWING, DO NOT USE FOR CONSTRUCTION.

BUILDER/CONTRACTOR:
Bay Art

CLIENT:
Dino & Michelle Recchia
Shore-Wood Drive
Traverse City, Michigan
PRELIMINARY SITE PLAN

Design Classics residential design
19122 Beachridge Drive Lake Ann, MI 49650 231 275 5170

B A C DESIGN GROUP
Bruce Anderson Architect
Tel: 11-2021 Office

REVISIONS

DESIGNED & DRAWN BY:
KEN WILLIAMS

SCALE:
1/16" - 1'-0"

DATE:
6/3/16

SHEET 1 OF 2 SHEETS

COPY

SHORE - WOOD

PART OF LOT 1, SEC. 28 & LOT 3, SEC. 27
T.30N., R.10W., PENINSULA TWP., GRAND TRAVERSE
COUNTY, MICHIGAN.

SCALE: 1 INCH = 100 FEET.

0 50 100 200 300 400 500 FT.

ALL DIMENSIONS ARE IN FEET & DECIMALS

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that we GEORGE I. ALTENBURG AND HELEN P. ALTENBURG, HIS WIFE,

as proprietors, have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as "Shore-Wood" a part of Lot 1, Sec. 28 and Lot 3, Sec. 27, T.30 N., R.10 W., Peninsula Township, Grand Traverse County, Michigan

and that the streets as shown on said plat are hereby dedicated to the use of THE LOT OWNERS.

Signed and Sealed in the Presence of:

LYLE HELFRICH (Witness) GEORGE I. ALTENBURG (L.S.)

LEONARD SOBKOWSKI (Witness) HELEN P. ALTENBURG (L.S.)

ACKNOWLEDGMENT

STATE OF MICHIGAN
County of ..... } ss.

On this ..... day of ..... 19.. before me, a Notary Public in and for said County, personally came the above named .....

Known to me to be the persons who executed the above dedication and acknowledged the same to be their free act and deed.

GERTRUDE H. LARBIE
Notary Public ..... County
My Commission expires .....

DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "Shore-Wood" a part of Lot 1, Sec. 28 and Lot 3, Sec. 27, T.30N., R.10 W., Peninsula Township, Grand Traverse County, Michigan,

is described as follows:

Beginning on E.&W. ¼ line 1242.18 ft. W. of E. ¼ Post, Sec. 28 T.30N., R.10W. at the NW corner of the recorded plat of Mission Acres; thence S. 89°36'E. 312.2 ft., along the N. line of skid plat, thence N. 1°31'W. 279.21 ft., thence N. 26°10' E., 169.2 ft., thence N. 76°58'E. 277.1 ft., thence N.71°41' E. 487.0 ft., thence N. 87°34'E. 500.2 ft., thence N. 51°50' E. 1350.65 ft. to a point in the W. 1/8th line of Sec. 27; thence N. 1°05'E. 330 ft. along said 1/8th line, thence S. 74°19'W. 200. ft., thence S. 49°37'W. 1000 ft., thence S. 58°53'W. 400. ft., thence S. 71°29'W. 1200. ft., thence S. 54°47'W. 100. ft., thence S. 32°36'W. 300. ft., thence S. 5° 34'E. 405.15 ft. to place of beginning.

TOWNSHIP APPROVAL

This plat was approved by the Peninsula Twp. Board of the Peninsula Twp. of Gd. Traverse Co. at a meeting held June 21 19..

FAY DOHN (Clerk)

APPROVAL BY COUNTY BOARD

This plat was approved on the 7th day of July 19 48

July 1948

GEORGE E. JOHNSON (County Register of Deeds)

JOHN L. KILMER (County Clerk)

EDWIN WILSON (County Treasurer)

APPROVAL BY BOARD OF COUNTY ROAD COMMISSIONERS

This plat has been examined and was approved on the 7th day of July 1948 by the Grand Traverse County Board of Road Commissioners.

H. J. FOX (Chairman)

DUNCAN MORRISON (Member)

C. A. WOOD (Member)

COUNTY TREASURER'S CERTIFICATE

Office of County Treasurer, Grand Traverse County.

I hereby certify, that there are no tax liens or titles held by the State on the lands described hereon, and that there are no tax liens or titles held by individuals on said lands, for the five years preceding the ..... day of ..... 19.. and that the taxes for said period of five years are all paid, as shown by the records of this office, except .....

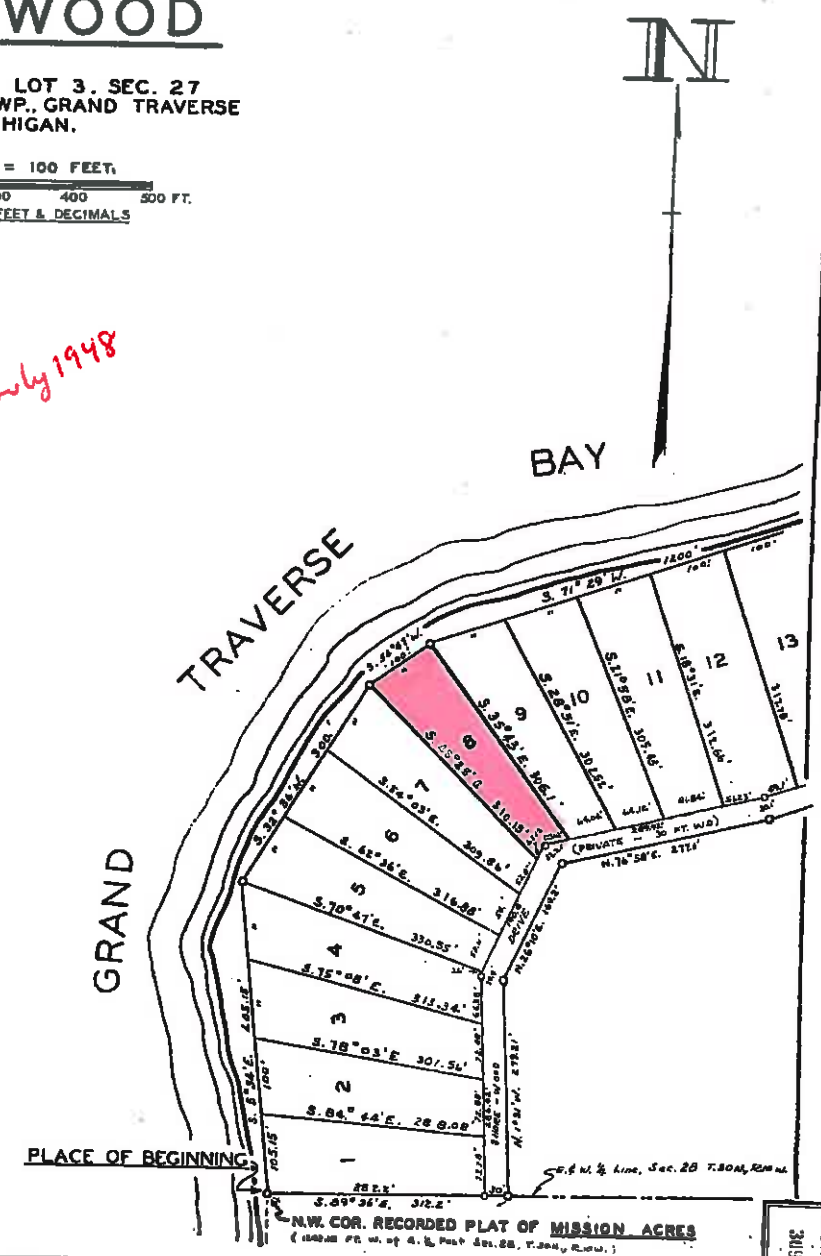
This certificate does not apply to taxes, if any, now in process of collection by township, city or village collecting officers.

EDWIN WILSON (County Treasurer)

SURVEYOR'S CERTIFICATE

I hereby certify that the plat hereon delineated is a correct one and that permanent metal monuments consisting of bars not less than one-half inch in diameter and 45 inches in length, encased in concrete cylinders at least 4 inches in diameter and 48 inches in depth have been placed at points marked thus (....0....) as thereon shown at all angles in the boundaries of the land platted, at all the intersections of streets, intersections of alleys, or of streets and alleys, and at the intersections of streets and alleys with the boundaries of the plat.

LEO V. NOTHSTINE 5048
Registered Land Surveyor



LEO V. NOTHSTINE — REGISTERED LAND SURVEYOR — MANCELONA, MICH.

30995

Peninsula Township Board/Planning Commission
Zoning Board of Appeals/Park Commission

Special Joint Meeting – Township Hall

July 13, 2016 – 7:00 p.m.

Meeting called to order at 7:00 p.m.

Present: Town Board - Correia, Hoffman, Byron, Rosi and Witkop
Planning Commission: Leak, Peters, Serocki, Hornberger, Couture, Rosi and Wunsch
Zoning Board of Appeals: Vlda, Soutar, Witkop, Wunsch, and alternates, Snow and Elliott
Park Commission: Sanders, Shipman, Skerski, and Griffiths
Also present: Attorney Jim Young

Absent and excused: Avery, Weatherholt, Cowall and Andrus

1. Call to order
2. Pledge
3. Roll Call
4. Approve Agenda

Motion: Byron/Rosi to approve agenda. Passed Unan
Motion: Hornberger/Wunsch to approve agenda Passed Unan
Motion: Vida/Witkop to approve agenda Passed Unan
Motion: Shipman/Skurski to approve agenda Passed Unan

5. Brief audience comments for items not on the agenda.

Nancy Davy 14713 Shipman Rd., T.C. Davy read a statement regarding land splits, easements, and the OHWM (Ordinary High Water Mark) and commented about the land split that was done for Correia.

Louis Santucci 12602 Center Rd., T.C. was concerned with being limited to 3 minutes per person for public comment. He was concerned that the attorney here this evening is the same one that sat through the meetings with regards to the previous speakers comments...however, he was not sure.

6. Conflict of Interest - None for all boards and commissions

7. Business

<u>1. Code of Ethics/Conflict of Interest/Policies and Procedures – Review with Township Attorney</u>

Young gave a brief background of his work stating that 99% of his work is municipalities.

Young talked about appearance of impropriety, and the difference between Legislative and Administrative decisions. Administrative decisions are easier to overturn than Legislative. Young provided the boards and commissions with really life examples. Young boards and commissions should follow the standards and look at the Zoning Ordinance and the Master Plan.

Young stated that board and commissions members should not be talking with supporters or opponents outside of the public meeting, and said that electronic media, email should not be done either.

Young said Town Board members should not be making zoning decisions, such as SUP (Special Use Permits) that Township's need a well-trained Planning Commission this is their job. He said a wiser course of action is to have Planning Commission making these zoning decisions following the Zoning Ordinance and the Master Plan.

Young asked Hoffman to read the "Code Of Ethics". then took questions from the boards and commissions.

Young was asked about taking campaign contributions. Young said people have a legal right to do so.

Byron asked about "liking" a Facebook page during a recent decision and that she had to recuse herself, but was not informed by council that attended the meeting that she could then participate in the public hearing process. Young said she could have and is going to review the details and get back to the Byron on this.

Shipman asked about the Township Attorney bringing the Finding of Facts to the boards and commissions. Young said that the boards and commissions needs to review them the Findings and that they are being met.

Witkop asked about board members and commissioners recusing themselves. Young said to disclose it, so it is on the record and if needed get a legal opinion of the conflict.

8. Citizen Comments - none
9. Board Comments - Leak, stated he was happy that none of the Planning Commission members do not have any hidden agendas.
Sanders, the meeting was very helpful.

Motion: Byron/Witkop to adjourn. Passed Unan
Motion: Wunsch/Peters to adjourn. Passed Unan
Motion: Soutar/Wunsch to adjourn. Passed Unan
Motion: Shipman/Skurski to adjourn. Passed Unan

Adjournment - 8:35 p.m.

Respectfully Submitted

Monica A, Hoffman CMMC/CMC
Township Clerk

PENINSULA TOWNSHIP
Zoning Board of Appeals
August 11, 2016

Meeting called to order at 7:00 p.m.

Roll Call
Present: Vida, Cowall, Wunsch, Soutar and Witkop
Absent: None
Also Present: **Michelle Reardon**, Director of Planning and Zoning; **Claire Schoolmaster**, Planning and Zoning Coordinator; **Peter Wendling**, Township Attorney and **Deb Hamilton**, Recording Secretary

Approve Agenda
Request No. 853 has been removed by applicant. Site plan provided by applicant is not correct.
MOTION: Cowall/Soutar to approve the agenda as amended. **MOTION PASSED**

Conflict of Interest
None

Communication Received
Additions were provided to the Commission and are on the Township website.

Brief Citizens Comments – for items not on the agenda
Louis Santucci, 12602 Center Rd., he submitted letter on an item on the agenda. It came to his attention that his letter and a letter submitted Mari Vineyards were given to the Board at 4:00 pm. He believes this is not a good way for the Commission to be able to read and understand. He also asked what an interpretation versus Zoning Ordinance amendment is. **Reardon** said the Board received the information yesterday.

Scheduled Public Hearings
A. Request No. 853, Zoning R-1C
Applicant: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Property Address: 7002 Peninsula Drive, Traverse City, MI 49686

Requests: (1) a variance of up to 9 feet from the 30 foot rear yard setback requirement to allow for the construction of a detached garage; and (2) a variance of up to 9 feet from the 15 foot side yard setback requirement to allow for the construction of a detached garage.

Parcel Code No. 28-11-325-085-00

Removed from agenda

B. Request No. 854, Zoning R-1B
Applicant: Joseph & Felicia Manhart, 2959 Mona Lisa Blvd, Naples, FL 34119
Owner: Joseph & Felicia Manhart, 2959 Mona Lisa Blvd, Naples, FL 34119

Property Address: 13415 Bluff Rd., Traverse City, MI 49686

Requests: (1) a variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (2) a variance of up to 8 feet from the 30 foot front yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (3) a variance of up to 25 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (4) a variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (5) a variance of up to 40 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion.

Parcel Code No. 28-11-420-021-00

Schoolmaster reviewed the request.
Joe Manhart, 13415 Bluff Rd., said this is two pieces of property (Lot 21 and 24). Trees were cut down by a previous owner. After walking the he property noticed the roots and trunks were decaying. The hill has about a 32% grade. The erosion needed to be repaired. The Association's shared frontage has a 24" high retaining wall up to his property line. Mr. Manhart submitted soil erosion applications with the County and thought he had his bases covered. He was informed he was out of compliance by an Association member. Mr. Manhart then came to Township to correct situation. He is asking for five variances. Association does not have problem with walls and has had no negative responses from association members.

Vida said it is his understanding that if the variance is approved the Association will request a variance to tie the two retaining walls together. *Mr. Manhart* said correct. **Vida** asked if there are any DEQ issues. *Mr. Manhart* said not to his knowledge. **Reardon** said it is all above the Ordinary High Water Mark. **Cowall** asked who engineered this solution. *Mr. Manhart* said he did. **Cowall** asked if the applicant had experience with shorelines. *Mr. Manhart* said he was an industrial engineer for UPS. **Vida** asked if the County Soil Erosion department thought Mr. Manhart's layout was acceptable. *Mr. Manhart* said yes.

Vida opened the Public Hearing at 7:18 pm.

Bob Rudd, 12399 Bluff Rd., said lives about a mile south of property. There has been high water and low water. Did Mr. Manhart investigate native plants to stop erosion on that hillside? Any development done between Bluff Road and the Bay is going to detrimental to the Bay.

Kent Rabish, 13383 Bluff Rd., said 15 years ago the trees were cut. The owners at the time had to come into Township because there were a lot of angry people. The previous owners were told to plant bushes or trees to try to keep the soil back. A dozen little bushes were out in the ground and were not taken care of. Everything was slipping and sliding and something needed to be done. The current owner would not need a wall if the trees were not cut down.

Vida closed the Public Hearing at 7:21pm

Reardon explained the Amendment 190 changes to the basic and special conditions.

Witkop suggested dealing with the five variances at one time.
MOTION: Vida/Soutar to handle with the five variances at one time. **MOTION PASSED**

Soutar asked about Zoning Ordinance changes regarding retaining walls. **Reardon** said the Planning Commission will be discussing fences and retaining walls on Monday. **Cowall** said he has a concern about projects being built before any contact with the Township and knowing whether or not that the project is the best solution. **Reardon** said Staff is building a rapport with the County and as far as expertise the Soil Erosion Department is the permit the Township would look for in this situation. The Township dictates standards but allow applicants choose a path. **Witkop** said when Assessor is processing deeds she could give that information to the Zoning Department to send out generic letter to the resident about Zoning. As far as the retaining walls it appears to her the placement was logical. **Soutar** said problem is cannot direct people to do the right thing. The fact is the erosion was there. Retain wall(s) are the only solution because getting vegetation to grow in sand is difficult.

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #854 – 13415 Bluff Road
August 11, 2016

DECISION AND ORDER

Applicant: Joseph & Felicia Manhart, 2959 Mona Lisa Blvd, Naples, FL 34119

Hearing Date: August 11, 2016

PROPERTY DESCRIPTION

The property of 13415 Bluff Road, Traverse City, MI 49686, Parcel No. 28-11-420-021-00 herein after referred to as the "property".

APPLICATION

Requests: (1) a variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (2) a variance of up to 8 feet from the 30 foot front yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (3) a variance of up to 25 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (4) a variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (5) a variance of up to 40 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion.

The Board having considered the Application, a public hearing having been held on August 11, 2016, after giving due notice as required by law, the Board having heard the statements of the Applicant and agents, the Board after having considered letters submitted by members of the public and comments by

members of the public, the Board having considered four (4) exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned Coastal Zone Single and Two-Family (R-1B). (Exhibits 1, 2)
2. The Board finds that the lot was created in 1990 and is conforming. (Exhibit 1, 2)
3. The Board finds that the existing retaining walls do not conform to relevant zoning standards. (Exhibits 2, 3, 4)
4. The parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)
5. The Board finds that the applicant requests a variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion. (Exhibit 3)
6. The Board finds that the applicant requests a variance of up to 8 feet from the 30 foot front yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion. (Exhibit 3)
7. The Board finds that the applicant requests a variance of up to 25 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion. (Exhibit 3)
8. The Board finds that the applicant requests a variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion. (Exhibit 3)
9. The Board finds that the applicant requests a variance of up to 40 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion. (Exhibit 3)

MOTION: Soutar/Witkop to approve the general findings of fact

ROLL CALL VOTE: Witkop – yes; Cowall – yes; Vida – yes; Soutar – yes; and Wunsch – yes.

MOTION PASSED UNAN

Variance Request #1 A variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

   The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Cowall the standards of basic condition number one have been met, especially letter "c."

MOTION PASSED UNAN

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

d. The Board finds that the current condition of the vegetation has deteriorated to such an extent that would create further erosion. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Wunsch the standards of basic condition two have been met.

MOTION PASSED 4-1 (Cowall)

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

b. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

c. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

d. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes, which is a goal of Peninsula Township planning and zoning. (Exhibit 3)

This standard HAS been met.

MOTION: Witkop/Wunsch the standards of basic condition three have been met.

MOTION PASSED UNAN

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Witkop the standards of basic condition four have been met.

MOTION PASSED 4-1 (Cowall)

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

The following findings may support this standard HAS been met.

a. The Board finds that generally existing retaining wall is unlikely to cause adverse impacts of the subject property or that of any neighboring properties. (Exhibits 3, 4)

This standard HAS been met.

MOTION: Witkop/Soutar the standards of basic condition five have been met.

MOTION PASSED UNAN

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

   The following findings may support this standard HAS been met.

   a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

   This standard HAS been met.

MOTION: **Vida/Witkop the standards of basic condition six have been met.**

MOTION PASSED UNAN

Variance Request #2 A variance of up to 8 feet from the 30 foot front yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

   The following findings may support this standard HAS been met.

   a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

   b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

   c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

   This standard HAS been met.

MOTION: **Soutar/Cowall the standards of basic condition number one have been met, especially letter "c."**

MOTION PASSED UNAN

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

   The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

d. The Board finds that the current condition of the vegetation has deteriorated to such an extent that would create further erosion. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Wunsch the standards of basic condition two have been met.

MOTION PASSED 4-1 (Cowall)

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

b. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

c. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

d. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes, which is a goal of Peninsula Township planning and zoning. (Exhibit 3)

This standard HAS been met.

MOTION: Witkop/Wunsch the standards of basic condition three have been met.

MOTION PASSED UNAN

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Witkop the standards of basic condition four have been met.

MOTION PASSED 4-1 (Cowall)

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

The following findings may support this standard HAS been met.

a. The Board finds that generally existing retaining wall is unlikely to cause adverse impacts of the subject property or that of any neighboring properties. (Exhibits 3, 4)
b.

This standard HAS been met.

MOTION: Witkop/Soutar the standards of basic condition five have been met.

MOTION PASSED UNAN

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

This standard HAS been met.

MOTION: Vida/Witkop the standards of basic condition six have been met.

MOTION PASSED UNAN

Variance Request #3 A variance of up to 25 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

   The following findings may support this standard HAS been met.

   a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

   b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

   c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

   This standard HAS been met.

MOTION: Soutar/Cowall the standards of basic condition number one have been met, especially letter "c."

MOTION PASSED UNAN

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

   The following findings may support this standard HAS been met.

   a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

   b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

   c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

   d. The Board finds that the current condition of the vegetation has deteriorated to such an extent that would create further erosion. (Exhibit 3)

   This standard HAS been met.

MOTION: Soutar/Wunsch the standards of basic condition two have been met.

MOTION PASSED 4-1 (Cowall)

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

   The following findings may support this standard HAS been met.

   a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

   b. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

   c. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

   d. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes, which is a goal of Peninsula Township planning and zoning. (Exhibit 3)

   This standard HAS been met.

MOTION: **Witkop/Wunsch the standards of basic condition three have been met.**

MOTION PASSED UNAN

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

   The following findings may support this standard HAS been met.

   a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

   b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

   c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

   This standard HAS been met.

MOTION: **Soutar/Witkop the standards of basic condition four have been met.**

MOTION PASSED 4-1 (Cowall)

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

The following findings may support this standard HAS been met.

a. The Board finds that generally existing retaining wall is unlikely to cause adverse impacts of the subject property or that of any neighboring properties. (Exhibits 3, 4)

This standard HAS been met.

MOTION: Witkop/Soutar the standards of basic condition five have been met.

MOTION PASSED UNAN

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

This standard HAS been met.

MOTION: Vida/Witkop the standards of basic condition six have been met.

MOTION PASSED UNAN

Variance Request #4 A variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

This standard HAS been met.

<u>MOTION:</u> Soutar/Cowall the standards of basic condition number one have been met, especially letter "c."

MOTION PASSED UNAN

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

   The following findings may support this standard HAS been met.

   a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

   b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

   c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

   d. The Board finds that the current condition of the vegetation has deteriorated to such an extent that would create further erosion. (Exhibit 3)

   This standard HAS been met.

<u>MOTION:</u> Soutar/Wunsch the standards of basic condition two have been met.

MOTION PASSED 4-1 (Cowall)

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

   The following findings may support this standard HAS been met.

   a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

   b. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

   c. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

d. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes, which is a goal of Peninsula Township planning and zoning. (Exhibit 3)

This standard HAS been met.

MOTION: Witkop/Wunsch the standards of basic condition three have been met.

MOTION PASSED UNAN

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Witkop the standards of basic condition four have been met.

MOTION PASSED 4-1 (Cowall)

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

The following findings may support this standard HAS been met.

a. The Board finds that generally existing retaining wall is unlikely to cause adverse impacts of the subject property or that of any neighboring properties. (Exhibits 3, 4)

This standard HAS been met.

MOTION: Witkop/Soutar the standards of basic condition five have been met.

MOTION PASSED UNAN

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

This standard HAS been met.

MOTION: Vida/Witkop the standards of basic condition six have been met.

MOTION PASSED UNAN

Variance Request #5 A variance of up to 40 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Cowall the standards of basic condition number one have been met, especially letter "c."

MOTION PASSED UNAN

2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

d. The Board finds that the current condition of the vegetation has deteriorated to such an extent that would create further erosion. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Wunsch the standards of basic condition two have been met.

MOTION PASSED 4-1 (Cowall)

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

b. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

c. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

d. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes, which is a goal of Peninsula Township planning and zoning. (Exhibit 3)

This standard HAS been met.

MOTION: Witkop/Wunsch the standards of basic condition three have been met.

MOTION PASSED UNAN

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

a. The Board finds that the property has unique topography that slopes from west to east. (Exhibit 2, 3)

b. The Board finds that the parcel is divided by Bluff Road and there is no building envelope located on the eastern zoning lot. (Exhibits 1, 2)

c. The Board finds that the eastern zoning lot requires retaining walls to prevent long term erosion and to protect the Great Lakes. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Witkop the standards of basic condition four have been met.

MOTION PASSED 4-1 (Cowall)

5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

The following findings may support this standard HAS been met.

a. The Board finds that generally existing retaining wall is unlikely to cause adverse impacts of the subject property or that of any neighboring properties. (Exhibits 3, 4)

This standard HAS been met.

MOTION: Witkop/Soutar the standards of basic condition five have been met.

MOTION PASSED UNAN

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The following findings may support this standard HAS been met.

a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1B zoning district. (Exhibits 1, 2)

This standard HAS been met.

MOTION: Vida/Witkop the standards of basic condition six have been met.

MOTION PASSED UNAN

VARIANCE REQUEST # 1-5 MOTION TO APPROVE

MOTION: Witkop/Wunsch all five of the variance requests for applicant ZBA number 854 be granted based on the findings of fact as modified.
ROLL CALL VOTE: Wunsch-yes, Soutar-yes, Vida-yes, Cowall-yes and Witkop-yes
MOTION PASSED UNAN

The Peninsula Township Board of Appeals has **APPROVED** your request for (1) a variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront

erosion; and (2) a variance of up to 8 feet from the 30 foot front yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (3) a variance of up to 25 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (4) a variance of up to 15 feet from the 15 foot side yard setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion; and (5) a variance of up to 40 feet from the 60 foot Ordinary High Water Mark setback requirement to allow for the presence of an existing retaining wall to prevent waterfront erosion.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance requests #1-5 be **APPROVED**.

TIME PERIOD FOR JUDICIAL REVIEW

Mcl 125.3606 provides that any party aggrieved by a decision of the Zoning Board of Appeals may appeal that decision to the Circuit Court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the ZBA, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.

DATE DECISION AND ORDER ADOPTED

Date	Chairperson
Date	Vice Chairperson
	Secretary

Approval of Minutes
June 23, 2016 Special Meeting
MOTION: Vida /Cowall to accept the June 23, 2016 minutes as presented. **MOTION PASSED**

Old Business
Request No. 847, Interpretation (Adjourned from June 23, 2016)
Peninsula Township Zoning Administrator requests interpretation of Section 8.7.3 (10) (u) - What constitutes a "guest activity use" as opposed to what is allowed in the tasting room of a Winery Chateau without a guest activity use permit?
Wendling said there was question on the authority of the Zoning Board of Appeals to engage in interpretation. Section 5.7.2 (1) – "The Board of Appeals shall have the power to interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance." Usually requests for interpretation are rare and the only reason they are done without seeking clarification through zoning amendment is when there is a more exigent circumstance arising that needs to be dealt with immediately. Opposed to waiting for a change in

the ordinance which may address the problem. In this case there were enforcement problems. Wendling believes those circumstances at least related guest activity are not that important today as perhaps they were thought to be back in May and June due to other facts that have come to light. Wendling recommended not to adopt the resolution but to have this matter addressed through the zoning amendment process. This goes back to Article VIII 10 d – "Guest Activity Uses do not include wine tasting and such related promotional activities as political rallies, winery tours and free entertainment (Example - "Jazz at Sunset") which are limited to the tasting room and for which no fee or donation of any kind is received." Underneath it, it states about uses allowed when a Guest Activity permit is issued. We are trying to figure out if it is a paid event and the winery does not have a guest activity permit is the winery allowed to engage in that activity. Marie-Chantal Dalese, President and CEO of Chateau Chantal, stated in a letter "it is clear to me the intent of this interpretation. A winery-chateau without a guest use permit should not be hosting paid events until they have meet the requirements." How do you have solid language that prevents that from occurring when a fee can be taken in so many different ways? Perhaps that language already cited is the main problem as opposed to what is outlined as being allowed with a Guest Activity Use. Some of the other wineries and members of the public have concerns about what is going on at a certain winery. That does need to be worked on regardless but a better route at this point is to allow a zoning amendment to work. Some of these businesses including some of the winery/chateaus have looked at this resolution and said it is not quite what we believe it to be as far as the activities they engage in. One thing that could be done is if you do not have a guest activity uses permit maybe hosting events could be something that the zoning ordinance is meant to prohibit. It would be a standard that is clear and easily understandable. The points raised by the letters from the wineries are well founded and the exigent circumstance requesting the interpretation has passed as there are other issues to address involving the winery in the township.

Wendling asked Marie-Chantal Dalese to express her understanding of what the difference is and what her winery has received as a result of obtaining a guest activity permit and how that differentiates from a winery that does not have such a permit.

Marie-Chantel Dalese, President and CEO of Chateau Chantal, said she does know if there is a need for further ordinance amendments to address this. There is fussiness regarding political rallies but it does seem clear the divide between what you can do with a guest use activity permit versus what can be done in the tasting room without a permit. The guest use activity permit for Chateau Chantal came about as a two sides coming to an agreement where no one was necessarily happy but that is the agreement which what we have now in the ordinance. Chateau Chantal built there model based on the ordinance. The types of guest use activities Chateau Chantal does must conform to the rules listed in the ordinance. Chateau Chantal has been successfully with the wine education component. The goal on the peninsula is to tie our wineries to agriculture. Chateau Chantal has been able to use this ordinance to promote and have successful guest use activities that use peninsula produce and follow the rules. Pass that there is the idea there are the B&B privileges. Also in the tasting room with no charge there can be things like Jazz at Sunset.

Reardon said the discussions the Zoning Board of Appeals has already had regarding this issue. After those discussions language was crafted to summarize the ZBA conclusions. When that resolution went out we heard from other winery/chateaus. This resolution may impact their business model which is

fully in compliance with the ordinance. What the conversation has done is point us to the direction of the Planning Commission so they can solidify this through the new ordinance or an amendment.

Cowall asked where does this leave staff with enforcement. **Reardon** said the conditions surrounding the issue are not as dire as they once were. It does not mean the problem has gone away completely but it means that several things have lead staff to believe perhaps this does warrant more of an amendment process rather than an interpretation. **Cowall** said he is comfortable to take no action tonight.

New Business

Township Board Report (Witkop)

Planning Commission Report (Wunsch) said he was unable to attend the July Planning Commission meeting.

Adjournment

MOTION: Wunsch/Witkop to adjourn at 8:22p.m. **MOTION PASSED**

Respectfully submitted by Deb Hamilton, Recording Secretary